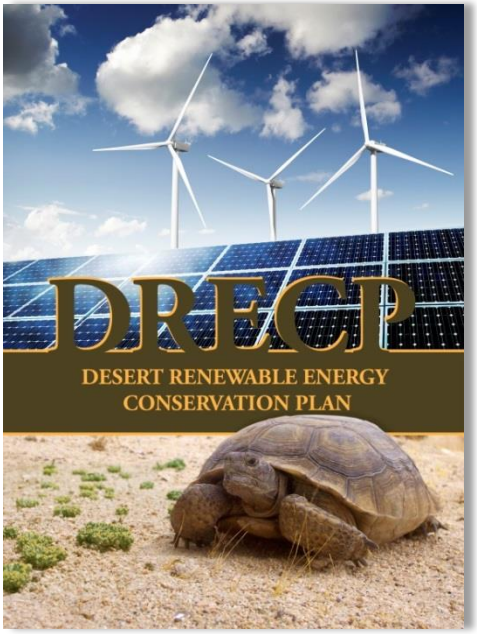
Desert Renewable Energy Conservation Plan
Proposed Land Use Plan Amendment and Final Environmental Impact Statement

Volume I: Background and Planning Process



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California Energy Commission

California Department of Fish and Wildlife

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FIGURES

ACRONYM LIST

ACEC	Area of Critical Environmental Concern
BGO	Biological Goals and Objectives
BLM	Bureau of Land Management
CalWEA	California Wind Energy Association
CDCA	California Desert Conservation Area
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEERT	Center for Energy Efficiency and Renewable Technologies
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CMA	Conservation and Management Action
CPUC	California Public Utilities Commission
DFA	Development Focus Area
DOD	Department of Defense
DOI	Department of the Interior
DRECP	Desert Renewable Energy Conservation Plan
DWMA	Desert Wildlife Management Area
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
ERMA	Extensive Recreation Management Area
ESA	Endangered Species Act
FLPMA	Federal Land Policy and Management Act
FR	Federal Register
GCP	General Conservation Plan
G-E-M	Geology, Energy, and Mineral
GHG	greenhouse gas
HCP	Habitat Conservation Plan
HMA	Habitat Management Area
ISA	Independent Science Advisors
ISP	Independent Science Panel
LSA	Large-Scale Solar Association
LUPA	Land Use Plan Amendment
MAMP	Monitoring and Adaptive Management Program
MBTA	Migratory Bird Treaty Act
MW	megawatt
NCCP	Natural Community Conservation Plan
NCL	National Conservation Lands
NEPA	National Environmental Policy Act
NLCS	National Landscape Conservation System

PEIS	Programmatic Environmental Impact Statement
REAT	Renewable Energy Action Team
RMP	Resource Management Plan
ROD	Record of Decision
ROW	right-of-way
RPS	Renewables Portfolio Standard
SO	Secretarial Order
SRMA	Special Recreation Management Area
TTG	Transmission Technical Group
U.S.C.	United States Code
USFS	U.S. Forest Service
USFWS	U.S. Fish and Wildlife Service
VPL	Variance Process Lands
WMRNP	West Mojave Route Network Project

I.0 INTRODUCTION

I.0.1 DRECP Background and Overview

The Bureau of Land Management (BLM) has prepared this Proposed Land Use Plan Amendment (LUPA) and Final Environmental Impact Statement (EIS) as part of the Desert Renewable Energy Conservation Plan (DRECP). The Draft Desert Renewable Energy Conservation Plan, published in September 2014, was developed as an interagency document by the BLM, the U.S. Fish and Wildlife Service (USFWS), the California Energy Commission (CEC), and the California Department of Fish and Wildlife (CDFW) to (1) advance federal and state natural resource conservation goals and other federal land management goals; (2) meet the requirements of the federal Endangered Species Act, California Endangered Species Act, Natural Community Conservation Planning Act, and Federal Land Policy and Management Act; and (3) facilitate the timely and streamlined permitting of renewable energy projects, all in the Mojave and Colorado/Sonoran desert regions of Southern California. Appendix A provides a chronological summary of federal and state agreements and actions taken to initiate development of the Draft DRECP and Environmental Impact Report (EIR)/EIS. The Draft DRECP included a strategy that identified and mapped potential areas for renewable energy development and areas for long-term natural resource conservation.

The Draft DRECP and EIR/EIS was published in September 2014, followed by a public review period ending in February 2015. In March 2015, the DRECP partner agencies announced a phased approach to completing the DRECP. As part of the approach, the LUPA, BLM's component of the DRECP, is being finalized first in Phase I, outlining important designations for conservation and renewable energy on BLM-administered lands.

Phase II of the DRECP will focus on the renewable energy development and resource conservation opportunities on nonfederal lands within the DRECP area. The timing and completion of Phase II has yet to be determined. The BLM, CEC, USFWS, and CDFW continue to work with the local governments within the DRECP area to determine the best options for aligning renewable energy development and conservation at the local, state, and federal levels.

The BLM, alongside the CEC, USFWS, and CDFW, continues to make progress toward completing the DRECP. As part of Phase I, BLM is releasing this Proposed LUPA and Final EIS, which incorporates feedback received during the public comment period.

The Proposed LUPA supports the overall renewable energy and conservation goals of the DRECP. The LUPA would amend the California Desert Conservation Area (CDCA) Plan as well as the Bishop and Bakersfield Resource Management Plans, specifically related to natural resource conservation and renewable energy development.

Because the DRECP's focus is on identifying suitable locations for potential renewable energy development and natural resource conservation in the desert region, the BLM, USFWS, CEC, and CDFW collaborated to develop the Draft DRECP and the Proposed LUPA. These agencies make up the Renewable Energy Action Team (REAT). Using this Final EIS, the BLM will make decisions for BLM-managed lands in the DRECP area and the CDCA while considering the other REAT agencies' goals and objectives, as well as any county renewable energy plans.

The REAT set forth the following primary goals for the DRECP, which are addressed for BLM-managed lands by the DRECP Proposed LUPA:

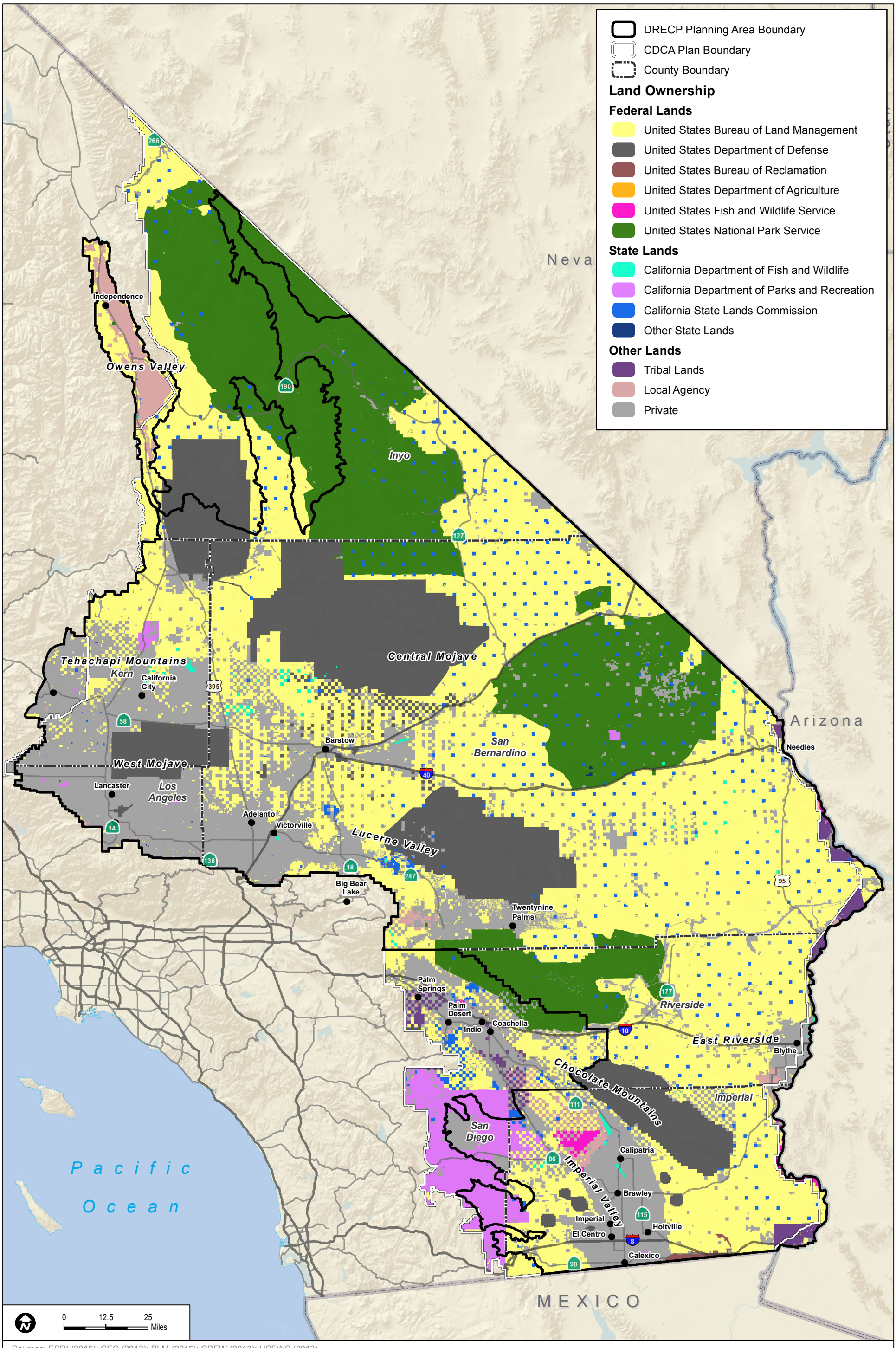
- To contribute to the conservation (recovery) of Focus Species (see Section I.3.2, DRECP Biological Conservation Planning Process), habitats, and vegetation types, as well as to the physical, visual, cultural, and social resources in the DRECP Plan Area (see Figure I.0-1)
- To streamline future permitting efforts for the development of renewable energy in the DRECP Plan Area to help meet state and federal renewable energy and transmission goals

Plan Area

The Draft DRECP and EIR/EIS included the DRECP Plan Area and the BLM LUPA Area.

The DRECP Plan Area (see Figure I.0-1) encompasses the Mojave Desert and Colorado/Sonoran Desert ecoregion subareas in California. The DRECP Plan Area includes portions of the following counties: Imperial, Inyo, Kern, Los Angeles, Riverside, San Bernardino, and San Diego. The DRECP Plan Area covers approximately 22,585,000 acres.

The northern boundary of the DRECP Plan Area follows the lower elevations of the Owens Valley, Amargosa Valley, and Death Valley in Inyo County. The eastern DRECP Plan Area boundary follows the state border from the Funeral Mountains in Inyo County to the U.S.–Mexico border. The southern DRECP Plan Area boundary follows the U.S.–Mexico border to southwestern Imperial County. The southwestern DRECP Plan Area boundary follows the lower elevations of western Imperial and eastern San Diego counties to include the Colorado/Sonoran Desert portions of these counties. In Riverside County, the western Plan Area boundary follows the eastern edge of the Coachella Valley Multiple Species Habitat Conservation Plan Area. This approved plan was not included in the DRECP Plan Area because it already covers construction of renewable energy projects, and the DRECP would be largely redundant.



Sources: ESRI (2015); CEC (2013); BLM (2015); CDFW (2013); USFWS (2013)

FIGURE I.0-1

DRECP Plan Area

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In San Bernardino and Los Angeles counties, the DRECP Plan Area boundary follows the northern edge of lands managed by the U.S. Forest Service (USFS), including the San Bernardino, Angeles, and Los Padres national forests. National Forest lands approximate the ecoregion subarea boundary between the Mojave and South Coast ecoregion subareas, whose vegetation types and species are very different from the desert ecoregion subarea of the DRECP Plan Area. Because USFS lands are a nondesert ecoregion subarea, USFS lands are not included in the DRECP Plan Area. In areas where the USFS ownership boundary is discontinuous and where this boundary abuts the BLM CDCA Plan boundary, the CDCA Plan boundary is used.

In the Tehachapi Mountains and southern Sierra Nevada Range of eastern Kern County, the DRECP Plan Area does not include land under Tejon Ranch ownership in the Tehachapi area because renewable energy development is explicitly prohibited on most of these lands, in accordance with the Tejon Ranch Conservation and Land Use Agreement (June 2008), and the terms of conservation easements held by the State of California on 62,000 acres of Tejon Ranch. In addition, small areas of land managed by the USFS in Kern and Inyo counties were not included in the DRECP Plan Area because USFS is not a participating agency in the DRECP.

The BLM LUPA Decision Area, depicted in Figures I.0-1 and I.0-2, includes BLM lands within the DRECP Plan Area and within the CDCA boundary. This includes lands covered by portions of the CDCA Plan and the Bakersfield and Bishop Resource Management Plans. The LUPA would also amend certain decisions for the entire CDCA Plan, including identification of lands for inclusion in National Landscape Conservation System, in accordance with the Omnibus Public Lands Management Act, establishment of Visual Resource Management Classes, and elimination and replacement of the multiple-use classes. The BLM LUPA Decision Area does not include the Colorado River Corridor, which is under the management of the BLM–Arizona State Office.

Although the entire DRECP Plan Area was used to develop the DRECP and is included throughout the Final EIS for analysis and illustrative purposes, the BLM LUPA will only apply to BLM-managed public lands.

I.0.2 Document Organization

As mentioned previously, the Draft DRECP was a comprehensive draft plan that identified areas that are more suitable for the development of renewable energy and transmission development projects and areas that are important for sensitive species and ecosystems in California's Mojave and Colorado/Sonoran deserts.

This Final EIS proposes a LUPA for California's BLM-managed desert regions to meet those goals. Specifically, the Proposed LUPA would include management for renewable

energy and transmission development projects on BLM-managed lands, as well as management for species and habitat values and other uses and values under the Federal Land Policy and Management Act.

The Final EIS evaluates the potential environmental, cultural, social, and scenic effects of the Proposed LUPA and other alternatives in accordance with the National Environmental Policy Act (NEPA) (42 United States Code [U.S.C.] 4321 et seq.), the Council on Environmental Quality's regulations for implementing NEPA (40 Code of Federal Regulations [CFR] 1500 et seq.), the Department of the Interior's regulations for implementing NEPA (43 CFR Part 46), and guidelines from other applicable federal authorities.

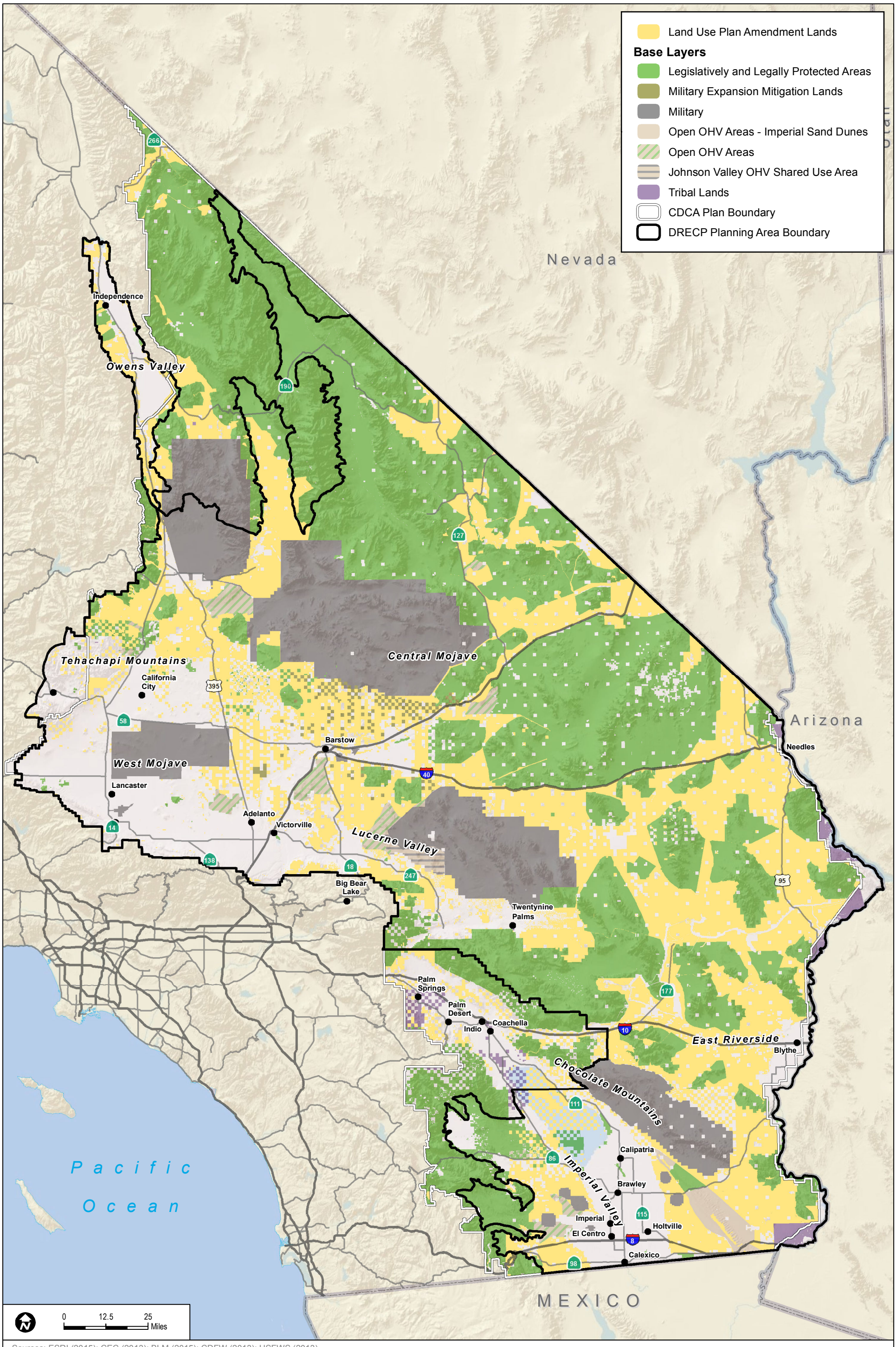
The Proposed LUPA and Final EIS is organized as outlined below.

Volume I, Background and Planning Process, includes:

- Introduction
- Purpose and need
- Regulatory framework
- Descriptions of conservation, renewable energy, and transmission planning processes

Volume II, Description of Alternatives, includes:

- Descriptions of the Proposed LUPA (Preferred Alternative), No Action Alternative, and Alternatives 1 through 4
- Alternatives considered but not carried forward for further analysis



Sources: ESRI (2015); CEC (2013); BLM (2015); CDFW (2013); USFWS (2013)

FIGURE I.0-2

Land Use Plan Amendment Lands

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Volume III, Environmental Setting/Affected Environment, includes:

- Descriptions of Affected Environment (referred to as NEPA baseline in the Draft EIR/EIS)
- Descriptions of existing conditions and affected environment for 23 environmental, cultural, social, and scenic resource categories

Volume IV, Environmental Consequences/Effects Analysis, includes:

- Analysis of environmental consequences for 23 environmental, cultural, social, and scenic resource categories for each alternative
- Analysis of cumulative effects; cumulative effects will include past, present, and reasonably foreseeable future actions, including ongoing renewable energy and conservation planning on private land
- Additional required NEPA sections

Volume V, Consultation, Coordination, and Public Participation, includes:

- Description of public scoping process and summary of issues raised in scoping
- Description of additional public outreach between scoping and the release of the Draft EIR/EIS
- Stakeholder involvement process
- Explanation of interaction with other agencies
- Description of public involvement and comments received during the public comment period on the Draft EIR/EIS
- Summary of government-to-government consultations with Native American tribes

Volume VI, Mitigation Monitoring and Adaptive Management, includes:

- Summary of BLM's commitment to implement project-specific mitigation measures, as required, and to implement adaptive management practices based on lessons learned from previous projects

Appendices include:

- BLM applicable appendices from the Draft DRECP and EIR/EIS (incorporated by reference), updated appendices, and new appendices for the Proposed LUPA and Final EIS
- Technical reports and documentation

- Supporting documentation
- Biological conservation framework
- Specific special unit management plans for National Conservation Lands (NCLs), Areas of Critical Environmental Concern (ACECs), Special Recreation Management Areas (SRMAs), and Extensive Recreation Management Areas (ERMAs)
- Responses to comments on the Draft DRECP and EIR/EIS

I.0.3 Requirement for Further Analysis

The Final EIS provides a programmatic-level analysis of impacts on the human environment such as biological, cultural, social, scenic, and other environmental resources. Renewable energy and transmission projects within the LUPA area will require project-level environmental review of site-specific impacts on resources as a necessary part of the subsequent approval process. Actions proposed by REAT agencies as part of the larger DRECP will be considered in subsequent environmental analyses.

I.0.4 Key Changes Between Draft and Final

The Final EIS has been updated based on comments from the REAT agencies, other cooperating agencies, tribes, state and local governments, stakeholders, and the public. Below is a list of key changes. While this list does not capture every change between the Draft DRECP and EIR/EIS and the Proposed LUPA and Final EIS, it provides an overview of the major themes and adjustments to the Preferred Alternative and the analysis of the alternatives.

Phasing – Proposed LUPA and Final EIS

See Section I.0.1 for a description of the phasing of the DRECP.

National Conservation Lands

Chapter I.3, Planning Process, now includes a more detailed discussion of the planning for NCLs, including information on the process used to identify NCLs, and the BLM's interpretation of Public Law 111-11, that once identified, designation of CDCA lands as NCLs is permanent and cannot be changed through a land use plan amendment.

Renewable Energy

Volume I has been updated to include a description of the DRECP's connection with BLM's ongoing solar and wind rulemaking.

Alternatives

The description of the Preferred Alternative and other action alternatives has been refined and organized to more clearly communicate the features of each alternative relevant to the LUPA. The action alternatives loosely follow the structure of the Draft DRECP and EIR/EIS. However, where the interagency decisions were separate from the BLM-specific decisions in the Draft, the Proposed LUPA integrates them, giving the reader a better understanding of the full BLM Proposed LUPA. The Preferred Alternative also clarifies which activities each CMA applies to, and uses consistent language when referring to activities on BLM-managed lands. General Conservation Plan (GCP) and Natural Community Conservation Plan (NCCP) specific CMAs and decisions have been removed from the alternatives. Finally, the CDCA Plan-specific amendments to the multiple-use classes has been clarified and simplified.

Preferred Alternative

The following list includes, but is not limited to, changes made to the Preferred Alternative based on public comment, in no particular order:

- Addition of a detailed methodology for implementing and managing for ground disturbance caps in NCLs and ACECs, including the addition of ground disturbance mitigation
- Reduction of the Development Focus Area (DFA) in eastern Riverside County (Riverside East Solar Energy Zone/DFA) to avoid and minimize impacts to cultural resources, sand resources, Aeolian sand transport corridors, and the McCoy Wash (microphyll woodlands)
- Additional conservation in the Preferred Alternative that was not proposed under the Preferred Alternative in the Draft EIS, including Silurian Valley, Cadiz Valley, the entirety of the Desert Tortoise Research Natural Area, and the Palen-Ford cultural and sand resources
- Reduction in SRMA acreage in the Preferred Alternative by 73,000 acres and an increase in ERMA acreage by over 67,000 acres
- Elimination of the two Special Analysis Areas
- Addition of the Searles Lake, Tehachapi Scattered Parcels, and Kramer Junction DFAs in the West Mojave ecoregion
- Elimination of the Hidden Hills area DFA
- Reduction of the National Scenic and Historic Trail management corridor to 1 mile from centerline and specified the LUPA was only addressing the corridor on BLM land

- Excising of most large and moderately sized mineral operations from NCLs, ACEC, Wildlife Allocations, SRMAs, and ERMAs
- Combining the two Study Area allocations—DRECP Variance Lands and Future Assessment Areas—into a single allocation called Variance Process Lands (VPL), for simplicity
- Removal of rock hounding areas identified by public comments from DFAs
- Changes to the Conservation and Management Actions (CMAs)
    - Clarified that the CMAs apply to all activities in a land allocation and for a resource unless specifically addressing renewable energy and transmission; this was implied in Volume II in the Draft DRECP and EIR/EIS, but was not clear due to the interagency nature of the CMAs in the Draft
    - Clarified that NCLs and ACECs are right-of-way avoidance areas (unless ACEC is designated as an exclusion area or in a designated transmission corridor)
    - Changed the goal of acquisitions from NCLs only, to all conservation designations, and from within boundaries to within and adjacent to the boundaries; added a goal of acquisitions to include land and interest in land throughout the DRECP Plan Area when serving conservation purposes
    - Designated all lands in NCLs, ACECs, and Wildlife Allocations for retention
    - Addition of adaptive management provisions for the Antimony Flats VPL and Kramer Junction DFA to potentially change allocation designation based on Kern and/or San Bernardino County General Plan Amendments
    - Added clarity and detail to mineral resource existing authorizations and valid existing rights
    - More definition and clarity of management and allowable uses for unallocated lands
- Implementation and adaptive management
    - These sections have been revised to focus on BLM decision-making process
    - Additional detail added regarding future mineral withdrawals

Analysis of Impacts

Impact analysis has been refined to more clearly communicate the potential effects of the LUPA, rather than the interagency action. For each resource, methods of analysis and typical impacts are described similar to the Draft DRECP and EIR/EIS, followed by an alternative-specific analysis of (1) impacts of renewable energy and transmission development, (2) impacts of ecological and cultural conservation and recreation designations, (3) impacts of transmission outside of the DRECP Plan Area, and (4)

comparison of alternatives. Acreage numbers and narratives have been refined to focus discussion of geographic-specific impacts of BLM designations (primarily BLM lands with some indirect effects on non-BLM lands)**.** California Environmental Quality Act (CEQA) impact significance and impacts related to the NCCP and GCP has been eliminated. As a result of renewable energy designations being limited to BLM lands, impacts to private lands, including biological resources on private lands, and agricultural and land use impacts, are reduced. The Proposed LUPA and Final EIS includes a better-integrated climate change analysis (climate refugia and carbon sequestration) discussion throughout the document, overlapping where appropriate.

Volume V

Volume V has been updated with the latest information on consultation and coordination for the Proposed LUPA and Final EIS.

Appendices

Appendices that remain pertinent to the BLM LUPA and Final EIS, and are unchanged from the Draft DRECP and EIR/EIS, are incorporated by reference. Appendices that have been updated for the LUPA and Final EIS are contained in this document, including but not limited to, a table of contents and page numbers for Appendix L, BLM Special Unit Management Plans. Four new appendices have been added to the Final EIS: Y, Proposed Land Exchange with the State of California; Z, Process Overview for Analysis of Potential Mineral Withdrawals on National Conservation Lands and Development Focus Areas – Post DRECP LUPA Record of Decision; AA, Responses to Comments; BB, Programmatic Agreement.

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I.1 PURPOSE AND NEED

I.1.1 Interagency Objectives/Purpose and Need

The interagency goal of the Desert Renewable Energy Conservation Plan (DRECP) is to provide a streamlined process for the development of utility-scale renewable energy generation and transmission consistent with federal and state renewable energy targets and policies, while simultaneously providing for the long-term conservation and management of special-status species and vegetation types as well as other physical, cultural, scenic and social resources within the DRECP Plan Area with durable and reliable regulatory assurances.

I.1.2 Bureau of Land Management Purpose and Need

The Bureau of Land Management (BLM) must respond to the increasing demand for renewable energy development and transmission, driven in part by:

- The Energy Policy Act's goal of at least 10,000 megawatts of renewable energy generation on public land as well as the more recent goal of an additional 10,000 megawatts on public land by 2020 (Executive Office of the President 2013).
- The Presidential Memorandum, issued May 17, 2013, directs federal agencies to modernize federal infrastructure review and permitting regulations, policies, and procedures. Among other best management practices, this memorandum directs federal agencies to integrate project reviews among agencies with permitting responsibilities; ensure early coordination with other federal agencies, as well as with state, local, and tribal governments; strategically engage with, and conduct outreach to, stakeholders; employ project-planning processes and individual project designs that consider local and regional ecological planning goals; utilize landscape-level mitigation practices; promote the sharing of scientific and environmental data in open-data formats to minimize redundancy, facilitate informed project planning, and identify data gaps early in the review and permitting process; and apply best environmental and cultural practices as set forth in existing statutes and policies.
- The Department of the Interior's (DOI's) established national policy goals (Secretarial Order [SO] 3285 and SO 3285A1; DOI 2009) to identify and prioritize specific locations best suited for large-scale production of solar energy on public lands; encourage the production, development, and delivery of renewable energy as one of DOI's highest priorities; and work collaboratively with others to encourage the timely and responsible development of renewable energy and associated transmission while protecting the nation's water, wildlife, and other natural resources.

- SO 3330 establishes a DOI-wide mitigation strategy that will ensure consistency and efficiency in the review and permitting of infrastructure development projects and in conserving the nation's valuable national and cultural resources (DOI 2013). This strategy includes the use of a landscape-scale approach to identify and facilitate investment in key conservation priorities in a region, early integration of mitigation considerations in project planning and design, ensuring the durability of mitigation measures over time, ensuring transparency and consistency in mitigation decisions, and a focus on mitigation efforts that improve the resilience of our nation's resources in the face of climate change.

Meeting renewable energy production and policy goals will require the BLM to coordinate closely with the State of California in permitting renewable energy and transmission projects proposed on federally administered lands while also considering the state's Renewable Energy Portfolio goals. (See Executive Order 13604 [77 Federal Register (FR) 18887] on improving infrastructure permitting and review, Section 3[a(i)] on federal–state coordination.) To accommodate this growth in renewable energy, the BLM also needs to consider changing land use allocations and management prescriptions in its California Desert Conservation Area (CDCA) Plan and Bakersfield and Bishop Resource Management Plans to address potential renewable energy and transmission development in the DRECP Plan Area.

BLM's objectives for the DRECP and Environmental Impact Statement (EIS) are to:

- Conserve biological, physical, cultural, social, and scenic resources.
- Promote renewable energy and transmission development, consistent with federal renewable energy and transmission goals and policies, in consideration of state renewable energy targets.
- Comply with all applicable federal laws, including the BLM's obligation to manage the public lands consistent with the Federal Land Policy and Management Act's (FLPMA) multiple-use[1] and sustained yield[2] principles, unless otherwise specified by law.

[1] The term "multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output (FLPMA 103[c]; 43 U.S.C. 1701 et seq.).

- "Preserve the unique and irreplaceable resources, including archaeological values, and conserve the use of the economic resources" of the CDCA (FLPMA 601[a][6]; 43 United States Code [U.S.C.] 1701 et seq.).
- Identify and incorporate public lands managed for conservation purposes within the CDCA as components of the National Landscape Conservation System (NLCS), consistent with the Omnibus Public Land Management Act of 2009 (PL 111-11).
- Amend land use plans consistent with the criteria in FLPMA and the CDCA Plan.
- Coordinate planning and management activities with other federal, state, local, and tribal planning and management programs by considering the policies of approved land resource management programs, to the extent consistent with federal law.
- Make some land use allocation decisions outside the DRECP area but within the CDCA, including Visual Resource Management Classes, land use allocations to replace multiple-use classes, and NLCS designations.

I.1.2.1 Bureau of Land Management Roles and Responsibilities

The BLM is an agency of the DOI authorized by Congress to manage and regulate federal public lands. The BLM promulgates rules and issues land use authorizations, including the permitting of renewable energy and transmission facilities on public lands. The BLM develops land use plans to ensure that public lands are managed to protect various resource values while providing for human occupancy and use under the mandates of multiple-use and sustained yield, while still allowing the possibility for change as required by federal law. Proponents for utility-scale solar and wind renewable energy facilities must obtain a right-of-way grant from the BLM to construct and operate on federal public land. Geothermal energy resources development is permitted under the BLM's geothermal leasing program.

The BLM also has specific responsibilities and authorities to consider, plan for, protect, and enhance historic properties and other resources that may be affected by its actions, in compliance with FLPMA, National Environmental Policy Act (NEPA), the National Historic Preservation Act of 1966 (54 U.S.C. 300101 et seq.) and implementing regulations (36 Code of Federal Regulations [CFR] 800), the Archaeological Resources Protection Act, the Native American Graves Protection and Repatriation Act, the Historic Sites Act of 1935, the Antiquities Act, the American Indian Religious Freedom Act, the Religious Freedom Restoration Act, Indian Sacred Sites (61 FR 26771 et seq.), Preserve America (68 FR

[2] The term "sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use (FLPMA 103[h]; 43 U.S.C. 1701 et seq.).

10635), Consultation and Coordination with Indian Tribal Governments (65 FR 67249 et seq.), and related authorities.

In carrying out its responsibilities specific to the National Historic Preservation Act, the BLM has (1) developed policies and procedures through its directives system (BLM 2004), (2) executed a national programmatic agreement in 2012 to help guide the BLM's planning and decision making as it affects historic properties as defined in the National Historic Preservation Act, (3) executed a programmatic agreement in 2012 among the BLM and the State Historic Preservation Officers of six western states (including the California State Historic Preservation Officer) and the Advisory Council on Historic Preservation regarding solar energy development on lands administered by the BLM, and (4) assembled cultural heritage specialists to advise BLM managers and to implement cultural heritage policies consistent with the BLM's statutory authorities.

I.1.2.1.1 DRECP and Final EIS Development

The BLM has entered into Memorandums of Understanding for DRECP development to establish the Renewable Energy Action Team and Renewable Energy Policy Group, participate with other agencies, and implement State renewable energy goals. The BLM used the findings of the Solar Programmatic EIS (BLM and DOE 2010) and other relevant BLM studies and analyses to help inform DRECP and Final EIS development.

I.1.2.1.2 Federal Endangered Species Act

The BLM will make a decision as to whether to amend its land use plans within and outside the DRECP area. Furthermore, within the CDCA boundary, the BLM will make decisions regarding NLCS designations. These decisions will constitute a federal action subject to Section 7 consultation under the federal Endangered Species Act. For a full description of Section 7(a)(2) interagency cooperation process, see Section I.2.1.3, Federal Endangered Species Act of 1973. The BLM will use the DRECP as a basis for consultation with the U.S. Fish and Wildlife Service. The Biological Opinion may also include a Conference Opinion for any proposed species or critical habitat (50 CFR 402.10).

I.1.2.1.3 Land Use Plan Amendments

BLM regulations (43 CFR 1610.5-5) allow BLM land use plans to be changed through amendment. The BLM may determine that an amendment is needed to consider monitoring and evaluation of findings, new data, new or revised policy, or a change in circumstances or a proposed action that may result in a change in the scope of resource uses or a change in the terms, conditions, and decisions of an approved plan. The BLM regulations (43 CFR 1600) guide preparation of land use plan amendments, which must also undergo NEPA

analysis as detailed in the Council on Environmental Quality regulations (40 CFR 1500) and DOI regulations (43 CFR 46).

I.1.2.2 Decisions to Be Made

The BLM will decide whether to amend the CDCA and the Bakersfield and Bishop land use plans. These amendments would identify goals and objectives, and allowable uses and management actions designed to achieve those goals and objectives. Specifically, in furtherance of the purpose of the DRECP and the Land Use Plan Amendment (LUPA) to conserve biological, environmental, cultural, social, and scenic resources; respond to federal renewable energy goals and policies and consider state renewable energy targets; and comply with the FLPMA multiple-use management goals, the plan amendments would identify:

- Areas of the public lands not previously identified in the CDCA Plan that are suitable and available for utility-scale solar, wind, and geothermal energy development and transmission, and where that development can be focused and streamlined
- Areas of the public lands that are not suitable and are unavailable for these types of uses
- Areas of the public lands and actions that may be used as mitigation for these types of uses
- Public lands within the CDCA to be managed for conservation and identified as components of the NLCS pursuant to the Omnibus Public Lands Management Act
- Other changes to land use allocations on the public lands, including but not limited to multiple-use classes in the CDCA, Visual Resource Management Classes, Special Recreation Management Areas, National Trail Management Corridors, wildlife and plant management areas, Areas of Critical Environmental Concern, and utility corridors
- Allowable uses, management actions, stipulations, best management practices, and mitigation measures to reduce or avoid impacts associated with large ground-disturbing activities, including renewable energy and transmission projects on public lands, and allowable uses and management actions designed to enhance resources and visitor experiences on public lands.

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I.2 LEGAL FRAMEWORK

At both the federal and state levels, current energy policy includes targets for increasing electricity generated from renewable energy sources. California's deserts have renewable energy potential of statewide importance, and renewable energy and transmission development is proceeding throughout the desert region. California's deserts also support irreplaceable biological, physical, cultural, scenic, and social resources. The Bureau of Land Management (BLM) Land Use Plan Amendment (LUPA) and Final Environmental Impact Statement (EIS) analyzes the potential environmental impacts of renewable energy and transmission projects and establishes requirements and conditions, including impact avoidance, and minimization and mitigation measures, which allow for streamlined federal permitting of such projects.

The LUPA includes conservation and management actions for special-status species and vegetative types, as well as other physical, cultural, scenic, and social resources, on BLM lands.

This chapter describes the context within which the BLM LUPA and Final EIS was developed. The following statutes, regulations, executive orders, and policies establish requirements or standards for the lead and cooperating agencies in the development and implementation of the Desert Renewable Energy Conservation Plan (DRECP) and Final EIS. For a summary of other resource-specific federal and state laws, orders, and regulations, see Volume III.

I.2.1 Bureau of Land Management

I.2.1.1 Federal Land Policy and Management Act

The Federal Land Policy and Management Act of 1976 (FLPMA), as amended, 43 United States Code (U.S.C.) Section 1701 et seq., provides the authority for the BLM land use planning. Section 102 (a) (7) and (8) sets forth the policy of the United States concerning the management of the public lands. FLPMA requires that "goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law" (Section 102[7]).

Section 201 requires the Secretary of the Interior to prepare and maintain an inventory of the public lands and their resources and other values, giving priority to Areas of Critical Environmental Concern (ACECs), and, as funding and workforce are available, to determine the boundaries of the public lands, provide signs and maps to the public, and provide inventory data to state and local governments.

Section 202 (a) requires the Secretary, with public involvement, to develop, maintain, and when appropriate, revise land use plans that provide by tracts or areas for the use of the public lands.

Section 202(c)(1–9) requires that, in developing land use plans, the BLM shall use and observe the principles of multiple use and sustained yield; use a systematic interdisciplinary approach; give priority to the designation and protection of ACECs; rely, to the extent it is available, on the inventory of the public lands; consider present and potential uses of the public lands; consider the relative scarcity of the values involved and the availability of alternative means and sites for realizing those values; weigh long-term benefits to the public against short-term benefits; provide for compliance with applicable pollution control laws, including state and federal air, water, noise, or other pollution standards or implementation plans; and consider the policies of approved state and tribal land resource management programs; developing land use plans that are consistent with state and local plans to the maximum extent possible and consistent with federal law and the purposes of the FLPMA.

Section 202 (d) provides that all public lands, regardless of classification, are subject to inclusion in land use plans, and that the Secretary may modify or terminate classifications consistent with land use plans.

Section 202 (f) and Sec. 309 (e) provide that federal, state, and local governments and the public be given adequate notice and an opportunity to comment on the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for the management of the public lands.

Section 302 (a) requires the Secretary to manage BLM lands under the principles of multiple use and sustained yield, in accordance with available land use plans developed under Section 202 of FLPMA. There is one exception: where a tract of BLM land has been dedicated to specific uses according to other provisions of law, it shall be managed in accordance with such laws.

Section 302 (b) recognizes the entry and development rights of mining claimants, while directing the Secretary to prevent unnecessary or undue degradation of the public lands.

Section 601 establishes the California Desert Conservation Area (CDCA), and instructs the Secretary of the Interior to prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of the public lands within the CDCA. That plan must take into account the principles of multiple use and sustained yield in providing for resource use and development, including, but not limited to, maintenance of environmental quality, rights-of-way (ROWs), and mineral development. Changes must be made through and in consideration of land use planning and other FLPMA requirements.

I.2.1.1.1 California Desert Conservation Area Plan

The CDCA Plan was approved in 1980 to meet this congressional direction. The CDCA Plan provides a multiple-use management blueprint for approximately 25 million acres in Imperial, Inyo, Kern, Los Angeles, Mono, Riverside, and San Bernardino counties, of which 10 million acres are managed by the BLM. Since adoption, the BLM has amended the CDCA Plan numerous times (BLM 1999). The major CDCA amendments within the Plan Area include the West Mojave Desert CDCA Plan Amendment (2006), the Northern and Eastern Mojave Desert CDCA Plan Amendment (2002), the Northern and Eastern Colorado Desert CDCA Plan Amendment (2002), the Western Colorado Desert California Desert Conservation Amendment CDCA Plan Amendment (2003), and the Imperial Sand Dunes Recreation Area Management Plan (2013). These amendments are discussed in detail in Volume III, Section III.11.3.1.1, Bureau of Land Management.

The CDCA Plan, as amended, is based on the concepts of multiple use, sustained yield, and maintenance of environmental quality. The goal of the CDCA Plan "is to provide for the use of the public lands, and resources of the California Desert Conservation Area, including economic, educational, scientific, and recreational uses, in a manner which enhances wherever possible—and which does not diminish, on balance—the environmental, cultural, and aesthetic values of the Desert and its productivity" (CDCA Plan, Introduction, BLM 1999, pp. 5–6).

This goal is achieved in the CDCA Plan through the direction given for management actions and resolution of conflicts. "Direction is stated first on a geographic basis in the guidelines for each of the four multiple-use classes. Within those guidelines further refinement of direction is expressed in the goals for each Plan element. Direction is also expressed in certain site-specific Plan decisions such as Areas of Critical Environmental Concern (ACECs)." Plan elements for the CDCA Plan include: Cultural Resource Element, Native American Element; Wildlife Element; Vegetation Element; Wilderness Element; Wild Horse and Burro Element; Livestock Grazing Element; Recreation Element; Motorized-Vehicle Access Element; Geology, Energy, and Mineral (G-E-M) Resources Element; Energy Production and Utility Corridors Element; and Land Tenure Adjustment Element.

Decisions within the CDCA Plan that are being amended by the LUPA are described in detail in Volume II, Chapter II.2, No Action Alternative.

I.2.1.1.2 Bakersfield Resource Management Plan

The Bakersfield Resource Management Plan (RMP) was approved in 2014. The Bakersfield Field Office is located in southern-central California and encompasses about 17 million acres throughout Kings, San Luis Obispo, Santa Barbara, Tulare, Ventura, Madera, eastern Fresno, and western Kern counties. Stretching from the coastal islands in the Pacific Ocean

across the Central Valley to the crest of the Sierra Nevada Range, public lands are scattered across the planning area in numerous small parcels. The larger blocks of public land lie in and adjacent to the Carrizo Plain of eastern San Luis Obispo and western Kern counties, in the Three Rivers-Kaweah River region of Tulare County, and in the Lake Isabella-Chimney Peak-Walker Pass region of Kern and Tulare counties. The decisions in the Bakersfield RMP apply to approximately 400,000 acres of BLM-administered public land and 1.2 million acres of Federal mineral estate in the Field Office.

The Bakersfield RMP consists of management objectives, allocations, and guidelines that will direct where things may happen, the resource conditions to be maintained, and the use limitations necessary to meet management objectives. Bakersfield RMP decisions that are being amended by the DRECP are described in detail in Volume II, Chapter II.2.

I.2.1.1.3 Bishop Resource Management Plan

The Bishop RMP was approved in 1993. The Bishop RMP provides direction for managing BLM-administered public land surface and federal mineral estate in the Bishop Resource Area, which is located in the eastern Sierra region of California in Inyo and Mono counties. The Bishop RMP focuses on four major issues: recreation, wildlife, minerals, and land ownership and authorization. In addition to these issues, specific decisions relate to ACECs, Special Recreation Management Areas, Scenic Byways, and streams eligible for study as potential additions to the National Wild and Scenic River System. There are also decisions addressing livestock grazing, cultural resources, fuelwood harvesting, fire suppression, and an east–west transmission line corridor. Decisions within the Bishop RMP that are being amended by the DRECP are described in detail in Volume II, Chapter II.2.

I.2.1.1.4 BLM Manual 1613 – Areas of Critical Environmental Concern

BLM Manual 1613 – Areas of Critical Environmental Concern (BLM 1988) provides the policy and procedural guidance on the identification, evaluation, and designation of ACECs in the development, revision, and amendment of RMPs. It also clarifies the relationship of ACECs to other designations and provides procedural guidance on the monitoring and management of ACECs.

I.2.1.2 National Environmental Policy Act

The National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.) directs "a systematic, interdisciplinary approach" to federal planning and decision making and requires the preparation of EISs for "major federal actions significantly affecting the quality of the human environment." The Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] 1500–1508) require federal agencies to identify and assess reasonable alternatives to proposed actions that will

restore and enhance the quality of the human environment and avoid or minimize adverse environmental impacts. Federal agencies are further directed to emphasize significant environmental issues in project planning and to integrate impact studies required by other environmental laws and Executive Orders into the NEPA process. The NEPA process should therefore be seen as an overall framework for the environmental evaluation of federal actions.

Land use plan amendments are federal actions subject to NEPA compliance.

The NEPA and land use planning process includes public involvement through scoping, which the Council on Environmental Quality regulations define as an "early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action" (40 CFR 1501.7). Volume V, Section V.1.1, of this document describes the scoping process. The federal agencies will review and address substantive public comments received for the Draft DRECP and Environmental Impact Report (EIR)/EIS. The EIS process culminates in issuance of a Record of Decision (ROD). The ROD will document the alternative selected for implementation; describe additional terms and conditions, stipulations, or mitigations that may be required; and discuss considerations that the agencies considered in making the final decision.

I.2.1.3 Federal Endangered Species Act of 1973

The Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.):

1. Provides a means whereby the ecosystems upon which endangered and threatened species depend may be conserved and provides a program for the conservation of such endangered and threatened species (Section 1531[b], Purposes).
2. Requires all federal agencies to seek to conserve endangered and threatened species and utilize applicable authorities in furtherance of the purposes of the ESA (Section 1531[c][1], Policy).
3. Requires all federal agencies to avoid jeopardizing the continued existence of any species listed or proposed for listing as threatened or endangered or destroying or adversely modifying its designated or proposed critical habitat (Section 1536[a], Interagency Cooperation).
4. Requires all federal agencies to consult (or confer) in accordance with Section 7 of the ESA with the Secretary of the Interior, through the U.S. Fish and Wildlife Service to ensure that any federal action (including land use plans) or activity is not likely to jeopardize the continued existence of any species listed or proposed to be listed under the provisions of the ESA, or result in the destruction or adverse modification of designated or proposed critical habitat (Section1536[a], Interagency Cooperation, and 50 CFR 402).

Although not required by regulation (50 CFR 402.12[b]), BLM has determined it will develop a Biological Assessment for the purpose of evaluating the potential effects of its LUPA, a federal action subject to Section 7(a)(2), on species listed or proposed to be listed as threatened or endangered under the ESA, and on critical habitat that has been designated or proposed for designation within the DRECP Plan Area. If an action is likely to adversely affect listed species or critical habitat, consultation under Section 7(a)(2) would result in a Biological Opinion and/or Conference Opinion issued by the U.S. Fish and Wildlife Service (USFWS) to the federal action agency. The Biological Opinion may also include a Conference Opinion for proposed species or critical habitat (50 CFR 402.10). The Biological Opinion would indicate whether the USFWS believes the action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat (50 CFR 402.14(g)(4)). In addition, the Biological Opinion would provide a statement of incidental take if such take may occur (50 CFR 402.14(g)(8)).

I.2.1.3.1 BLM Special-Status Species

It is BLM policy to manage for the conservation of special-status plants and their associated habitats and to ensure that actions authorized, funded, or carried out do not contribute to the need to list any sensitive species as threatened or endangered.

BLM Handbook 6840 (BLM 2008) states:

> Special-status species are: (1) species listed or proposed for listing under the Endangered Species Act (ESA), and (2) species requiring special management consideration to promote their conservation and reduce the likelihood and need for future listing under the ESA, which are designated as Bureau sensitive by the State Director(s).

I.2.1.3.2 Executive Order 13112

Executive Order 13112, Invasive Species, (64 FR 6183 et seq.) provides that no federal agency shall authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk or harm will be taken in conjunction with the actions.

I.2.1.4 National Historic Preservation Act of 1966

Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. 300101 et seq.), requires federal agencies to take into account the effects of their undertakings (projects), licensed or executed by the agency, on historic properties listed or

eligible for listing in the National Register of Historic Places, and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings (16U.S.C. 470[f]). The Section 106 process seeks to accommodate historic preservation concerns with the needs of federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects, and seek ways to avoid, minimize, or mitigate any adverse effects on historic properties. This investigation provides the information to evaluate the potential effects to cultural resources from each of the proposed alternatives.

Historic properties are defined as prehistoric and historic sites, buildings, structures, districts, and objects included in or eligible for inclusion on the National Register of Historic Places, as well as artifacts, records, and remains related to such properties (16 U.S.C. 470w[5]). Historic properties may include places of traditional religious and cultural importance to Indian tribes. Places of traditional religious or cultural importance to tribes may be archeological sites but often they are not. Consultation with tribes is required to identify such properties, assess their significance, determine the effects of the undertaking upon them, and determine appropriate treatment to avoid or reduce any adverse effect to them.

An undertaking is defined as a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with federal financial assistance; those requiring a federal permit, license, or approval; and those subject to state or local regulation administered pursuant to a delegation or approval by a federal agency.

I.2.1.5 Omnibus Public Land Management Act of 2009

In June 2000, the Department of the Interior (DOI) and BLM established the National Landscape Conservation System (NLCS) to provide for coordinated protection of the BLM's conservation lands. On March 30, 2009, President Barack Obama signed into law the Omnibus Public Land Management Act of 2009 (PL 111-11) (Omnibus Act), which congressionally established the NLCS, to "conserve, protect and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations." The NLCS includes areas administered by the BLM such as national monuments, conservation areas, wilderness study areas, national scenic trails or national historic trails designated as a component of the National Trails System, components of the National Wild and Scenic Rivers System, components of the National Wilderness Preservation System, and public land within the CDCA administered by the BLM for conservation purposes (Section 2002 of the act). Section 2002(c)(2) directs the Secretary of the Interior to manage the system in accordance with any applicable law (including

regulations) relating to the components of the system, and in a manner that protects the values for which the components of the NLCS were designated.

The NLCS brings into a single system some of the BLM's premier designations. Inclusion in the NLCS does not create any new legal protections for the lands already designated as national monuments, conservation areas, wilderness study areas, national scenic trails or national historic trails designated as a component of the National Trails System, components of the National Wild and Scenic Rivers System or components of the National Wilderness Preservation System. Inclusion in the NLCS system will create new legal protections through the land use plan decision for conservation lands in the CDCA. Within this document, lands within the NLCS are called "National Conservation Lands." The BLM will use the LUPA element of the DRECP to define which lands within the CDCA are included in the NLCS.

The National Conservation Lands of the California Desert have the conservation, protection, and restoration mandate of other specially designated lands in the NLCS, pursuant to the Omnibus Act and Secretarial Order 3308 (see Section I.2.1.5.1), consistent with FLPMA Section 601. The DRECP process, a process that includes a FLPMA land use planning component, offers a timely opportunity to reassess the conservation potential of CDCA lands. The DRECP will be used to identify, through amendments to the CDCA Plan, the public lands in the California Desert best suited for conservation under NLCS, as appropriate and consistent with law and policy.

I.2.1.5.1 Secretarial Order 3308

Secretarial Order 3308, Management of the National Landscape Conservation System (DOI 2010a), furthers the purpose of the Omnibus Public Land Management Act of 2009 (PL 111-11), which established the NLCS under the jurisdiction of the BLM in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations, and the president's initiative on America's Great Outdoors.

The order instructs the BLM to ensure that components of the NLCS are managed to protect the values for which they were designated. Appropriate multiple uses may be allowed, but the BLM should prohibit uses that are in conflict with the values for which the units were designated. The Secretarial Order also directs the BLM to manage NLCS components as integral part**s** of the larger landscape, in collaboration with neighboring land owners and surrounding communities, to maintain biodiversity, and promote ecological connectivity, and resilience in the face of climate change. The BLM is instructed to**:**

- integrate science and interdisciplinary perspective into the management of these areas**;**

- offer visitors the adventure of experiencing natural, cultural, and historic landscapes through self-directed discovery;
- build and sustain communities of partners and volunteers;
- draw upon the expertise of specialists throughout the BLM, in coordination with tribes, other federal, state, and local government agencies, interested local landowners, adjacent communities, and other public and private interests; and
- endeavor to inspire the next generation of natural resource and public land stewards by engaging youth through education, interpretation, partnerships, and job opportunities.

I.2.1.6 Secretarial Order 3330

Secretarial Order No. 3330, Improving Mitigation Policies and Practices of the Department of the Interior, establishes a DOI-wide mitigation strategy that will ensure consistency and efficiency in the review and permitting of infrastructure development projects and in conserving the nation's valuable natural and cultural resources. Central to this strategy are "(1) the use of a landscape-scale approach to identify and facilitate investment in key conservation priorities in a region, (2) early integration of mitigation considerations in project planning and design, (3) ensuring the durability of mitigation measures over time, (4) ensuring transparency and consistency in mitigation decisions, and (5) a focus on mitigation efforts that improve the resilience of our Nation's resources in the face of climate change" (DOI 2013).

I.2.1.7 Other Relevant Federal Authorities

I.2.1.7.1 Antiquities Act of 1906

The Antiquities Act of 1906 (16. U.S.C. 431 et seq.) grants the president authority to designate national monuments to protect objects of historic or scientific interest. While most national monuments are established by the president, Congress has also occasionally established national monuments protecting natural and historic features. Since 1906, the president and Congress have created more than 100 national monuments. The BLM, National Park Service, U.S. Forest Service (USFS), and USFWS manage national monuments. No national monuments are within the DRECP Plan Area, although the Santa Rosa–San Jacinto Mountains National Monument is within the CDCA boundary.

I.2.1.7.2 American Indian Religious Freedom Act

This act (42 U.S.C. 1996) recognizes that freedom of religion for all people is an inherent right and that traditional American Indian religions are an indispensable and irreplaceable part of Indian life. Establishing federal policy to protect and preserve the inherent right of religious freedom for Native Americans, this act requires federal agencies to evaluate their

actions and policies to determine if changes should be made to protect and preserve the religious cultural rights and practices of Native Americans. Such evaluations are made in consultation with native traditional religious leaders.

I.2.1.7.3 Indian Sacred Sites

Executive Order 13007 (Indian Sacred Sites), 61 FR 26771 et seq. (1996), requires federal agencies to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions to (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, and (2) avoid adversely affecting the physical integrity of such sacred sites.

I.2.1.7.4 Consultation and Coordination with Indian Tribal Governments

Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments; 63 FR 27655), provides, in part, that each federal agency shall establish regular and meaningful consultation and collaboration with Indian tribal governments in developing regulatory practices on federal matters that significantly or uniquely affect their communities.

I.2.1.7.5 Secretarial Order 3175

Secretarial Order 3175 (incorporated into the Departmental Manual at 512 DM 2; DOI 1993) requires that if DOI agency actions might impact Indian trust resources, the agency must explicitly address those potential impacts in planning and decision documents, as well as consult with the tribal government whose trust resources are potentially affected by the federal action.

I.2.1.7.6 Secretarial Order 3206

Secretarial Order 3206, American Indian Tribal Rights, Federal-Tribal Trust Responsibilities (DOI 1997 and the ESA), requires DOI agencies to consult with Indian tribes when agency actions to protect a listed species, as a result of compliance with ESA, affect or may affect Indian lands, tribal trust resources, or the exercise of American Indian tribal rights.

I.2.1.7.7 Secretarial Order 3215

Secretarial Order 3215, Principles for the Discharge of the Secretary's Trust Responsibility (DOI 2003), guides DOI officials by defining the relatively limited nature and extent of Indian trust assets, and by setting out the principles that govern the Trustee's fulfillment of the trust responsibility with respect to Indian trust assets.

I.2.1.7.8 Wild and Scenic Rivers Act of 1968

Selected rivers in the United States are preserved for possessing outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values. Rivers, or sections of rivers, so designated are preserved in their free - flowing condition and are not dammed or otherwise impeded. A national wild and scenic designation essentially vetoes the licensing of new hydropower projects on or directly affecting the river. It also provides very strong protection against bank and channel alterations that adversely affect river values; protects riverfront public lands from oil, gas, and mineral development; and creates a federal reserved water right to protect flow- dependent values (16 U.S.C. 1271 et seq.).

I.2.1.7.9 National Trails System Act

The National Trails System was created by the National Trails System Act (16 U.S.C. 1241 et seq.). The act created a series of national trails "to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation." Specifically, the act authorized three types of trails: the National Scenic Trails, National Recreation Trails, and connecting-and-side trails. In 1978, as a result of the study of trails that were most significant for their historic associations, a fourth category of trail was added: the National Historic Trails.

National Scenic Trails. A congressionally designated trail that is a continuous and uninterrupted extended, long-distance trail so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant resources, qualities, values, and associated settings and the primary use or uses of the areas through which such trails may pass. A segment of the Pacific Crest National Scenic Trail is located within the DRECP Plan Area.

National Historic Trails. A congressionally designated trail that is an extended, long-distance trail, not necessarily managed as continuous, that follows as closely as possible and practicable the original trails or routes of travel of national historic significance. The purpose of a National Historic Trail is the identification and protection of the historic route and the historic remnants and artifacts for public use and enjoyment. A National Historic Trail is managed in a manner to protect the nationally significant resources, qualities, values, and associated settings of the areas through which such trails may pass, including the primary use or uses of the trail. Segments of the Old Spanish and Juan Bautista de Anza National Historic Trails are located within the DRECP Plan Area.

National Recreation Trails. A trail designated by the Secretary of the Interior, through a standardized process, including a recommendation and nomination by the BLM. National Recreation Trails provide a variety of compatible outdoor recreation uses in or

reasonably accessible to urban areas or high-use areas. The Nadeau National Recreation Trail is located in the DRECP Plan Area.

I.2.1.7.10 Wilderness Act of 1964

Enacted in 1964, this act (PL 88–577) established the National Wilderness Preservation System of areas to be designated by Congress. It directed the Secretary of the Interior, within 10 years, to review every roadless area of 5,000 or more acres and every roadless island (regardless of size) within National Wildlife Refuges and National Park Systems and to recommend to the president the suitability of each such area or island for inclusion in the National Wilderness Preservation System, with final decisions made by Congress. The Secretary of Agriculture was directed to study and recommend suitable areas in the National Forest System. BLM-administered lands were brought under the direction of the Wilderness Act with the passage of FLPMA in 1976. Sections 603 and 201 of FLPMA (43U.S.C. 1701 et seq.) also directed the BLM to conduct inventories and make recommendations to the president for suitability of areas to be included in the system.

The act provides criteria for determining suitability and establishes restrictions on activities that can be undertaken on a designated area. Criteria set by Congress within this act state that wilderness areas have the following characteristics: (1) generally appear to have been affected primarily by the forces of nature, with the imprint of human's work substantially unnoticeable; (2) outstanding opportunities for solitude or primitive and confined types of recreation; (3) at least 5,000 acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value. The Wilderness Act also outlines accepted and prohibited uses of designated wilderness areas.

The act also sets special provisions for an agency's continuing management of existing or grandfathered rights such as mining and grazing and other agency mission-related activities. Lands acquired through donation adjacent to designated wilderness may become part of the wilderness upon completion of specific notification requirements.

I.2.1.7.11 Recreation and Public Purposes Act

This act (43 U.S.C. 869 et seq.) provides for the lease or disposal of public lands, and certain withdrawn or reserved lands, to state and local governments and qualified nonprofit organizations to be used for recreational or public purposes. Prices that are charged for land use or acquisition are normally less than market value of the specific lands. The act allows for reversion of the lands under certain conditions.

I.2.1.7.12 Surface Mining Control and Reclamation Act

This act (30 U.S.C. 1201 et seq.) establishes a program for the regulation of surface mining activities and the reclamation of coal-mined lands, under the administration of the Office of Surface Mining, Reclamation, and Enforcement in the DOI.

The law sets forth minimum uniform requirements for all coal surface mining on federal and state lands, including exploration activities and the surface effects of underground mining. Mine operators are required to minimize disturbances and adverse impacts on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable. Restoration of land and water resources is ranked as a priority in reclamation planning.

I.2.1.7.13 Mineral Leasing Act

This act (30 U.S.C. 181 et seq.) authorizes and governs leasing of public lands for development of deposits of coal, oil, gas and other hydrocarbons, sulfur, phosphate, potassium, and sodium.

I.2.1.7.14 Federal Onshore Oil and Gas Leasing Reform Act

An amendment to the Mineral Leasing Act, the Federal Onshore Oil and Gas Leasing Reform Act of 1987, granted the USFS the authority to make decisions and implement regulations concerning the leasing of public domain minerals on National Forest System lands containing oil and gas. The act changed the analysis process from responsive to proactive. The BLM administers the lease but USFS has more direct involvement in the leasing process for lands it administers. The act also established a requirement that all public lands available for oil and gas leasing be offered first by competitive leasing.

I.2.1.7.15 General Mining Law of 1872

This authority (30 U.S.C. 21 et seq.) sets forth rules and procedures for the exploration, location, and patenting of lode, placer, and mill site mining claims. Claimants must file notice of the original claim with the BLM, as well as annual notice of intention to hold, affidavit of assessment work, or similar notice.

I.2.1.7.16 Mining and Mineral Policy Act

This act (30 U.S.C. 21a) expressed the national policy to foster and encourage private enterprise in:

> (1) the development of economically sound and stable domestic mining, minerals, metal, and mineral reclamation industries; (2) the orderly and

> economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security, and environmental needs; (3) mining, mineral, and metallurgical research, including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable mineral resources; (4) the study and development of methods for the disposal, control, and reclamation of mineral waste products; and (5) the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities.

I.2.1.7.17 Taylor Grazing Act

The Taylor Grazing Act of 1934 (43 U.S.C. 315) provides for two types of authorized use:

> (1) a grazing permit, which is a document authorizing the use of the public lands within an established grazing district; and (2) a grazing lease, which is a document authorizing the use of the public lands outside an established grazing district. A grazing district is the specific area within which the public lands are administered in accordance with Section 3 of the Taylor Grazing Act. Public lands outside grazing district boundaries are administered in accordance with Section 15 of the act.

I.2.1.7.18 Consolidated Appropriations Act, 2012

The Consolidated Appropriations Act, 2012 (PL 112-74), affects management of the BLM's livestock grazing program. The appropriations language directs the Secretary of the Interior to accept "the donation" of any valid existing grazing permit or lease within the CDCA. The term donation in this provision is interpreted by the BLM to mean "voluntary relinquishment" of the permit or lease to graze on a public land grazing allotment and the preferential position that the permittee or lessee enjoyed, in relation to other applicants, to receive that permit or lease.

In addition to automatic termination of the relinquished permit or lease, the Secretary is directed to permanently end grazing on the land covered by the permit or lease. Designating specific areas of land as unavailable for livestock grazing is typically a land use plan decision; however, in this case Congress has directed that the lands be unavailable for livestock grazing upon relinquishment. In addition, while forage allocation is typically a land use plan decision, Congress has directed the BLM to make the land available for mitigation by allocating the forage to wildlife use.

To reflect the permanent end to grazing, to allocate the forage to wildlife use, and to bring the CDCA Plan into conformance with the Consolidated Appropriations Act, the CDCA Plan

must be amended. The Consolidated Appropriations Act does not itself amend the CDCA Plan. These land use changes resulting from application of the act may be accommodated during the next scheduled plan amendment.

I.2.1.7.19 Public Rangelands Improvement Act of 1978

The Public Rangelands Improvement Act (43 U.S.C. 1901 et seq.) establishes and reaffirms the national policy and commitment to (1) inventory and identify current public rangeland conditions and trends; (2) manage, maintain, and improve the condition of public rangelands so that they become as productive as feasible for all rangeland values in accordance with management objectives and the land use planning process; and (3) charge a fee for public grazing use that is equitable. This act also continues the policy of protecting wild, free-roaming horses and burros from capture, branding, harassment, or death, while facilitating the removal and disposal of excess wild, free-roaming horses and burros that pose a threat to themselves, their habitat, and to other rangeland values.

I.2.1.7.20 Wild Free-Roaming Horses and Burros Act

The Wild Free-Roaming Horses and Burros Act, as amended (16 U.S.C. 1331 et seq.) provides that wild horses and burros shall be considered comparably with other resource values in formulating land use plans, and that management activities shall be undertaken with the goal of maintaining free-roaming behavior.

I.2.1.7.21 Executive Orders 11644 and 11989

Executive Orders 11644 (1972; 37 FR 2877) and 11989 (1997; 42 FR 26959) establish policies and procedures to ensure that off-road vehicle use shall be controlled to protect public lands.

I.2.1.7.22 Executive Order 12898

The 1994 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Executive Order 12898) requires that each federal agency consider the impacts of its programs on minority and low-income populations (49 FR 7629).

I.2.1.8 Renewable Energy Laws and Other Relevant Policies

I.2.1.8.1 Geothermal Steam Act of 1970

The Geothermal Steam Act of 1970, as amended, governs the leasing of geothermal steam and related resources on public lands (30 U.S.C. 1001 et seq.). This act authorizes the Secretary of the Interior to issue leases for the development of geothermal resources and prohibits leasing on a variety of public lands, such as those administered by the USFWS.

In accordance with the Geothermal Steam Act and the Geothermal Resources Leasing Rule (43 CFR 3201.10), the BLM may issue leases on the following "available" lands:

- Lands administered by the DOI, including public and acquired lands not withdrawn from such use.
- Lands administered by the USFS with its concurrence.
- Lands conveyed by the United States where the geothermal resources were reserved to the United States.
- Lands subject to Section 24 of the Federal Power Act, as amended (16 U.S.C. 818), with the concurrence of the Secretary of Energy.

Conversely, the BLM is prohibited from issuing leases on the following statutorily closed federal lands as defined in the Geothermal Resources Leasing Rule (43 CFR 3201.11).

- Lands where the Secretary of Interior (Secretary) has determined that issuing the lease would cause unnecessary or undue degradation of public lands and resources.
- Lands contained within a unit of the National Park System or otherwise administered by the National Park Service.
- Lands where the Secretary determines after notice and comment that geothermal operations, including exploration, development, or utilization of lands, are reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System.
- Lands within a National Recreation Area.
- Fish hatcheries or wildlife management areas administered by the Secretary.
- Indian trust or restricted lands within or outside the boundaries of Indian reservations.
- Lands where Section 43 of the Mineral Leasing Act (30 U.S.C. 226 et seq.) prohibits geothermal leasing, including:
    - Wilderness areas or wilderness study areas administered by the BLM or other surface-management agencies.
    - Lands designated by Congress as wilderness study areas, except where the statute designating the study area specifically allows leasing to continue.
    - Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-sixth Congress (House Document 96-119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or are released to uses other than wilderness by an act of Congress.

I.2.1.8.2 Energy Policy Act of 2005

On August 8, 2005, the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.) was signed into law. Section 211 of the act states:

> It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity.

As of February 2014, the DOI has authorized 115 large-scale renewable energy projects nationwide on or involving public lands, including 27 solar facilities, 40 wind farms, and 48 geothermal plants. When completed, these projects will provide more than 16,316 megawatts of power. Other applications being reviewed could contribute to this goal.

I.2.1.8.3 Secretarial Order 3285A1: Renewable Energy Development by the Department of the Interior

Secretarial Order (SO) 3285A1, dated February 22, 2010, establishes the development of renewable energy as a priority for the DOI. It established a DOI-wide approach for applying scientific tools to increase understanding of climate change and to coordinate an effective response to impacts on tribes and on the land, water, ocean, fish and wildlife, and cultural heritage resources managed within the DOI. SO 3285A1 also establishes an energy and climate change task force that identifies specific zones on U.S. public lands where the DOI can facilitate a rapid and responsible move toward large-scale production of solar, wind, geothermal, and biomass energy (DOI 2010b).

I.2.1.8.4 BLM Solar Energy Program

The BLM developed and issued a Solar Energy Development Policy in 2007 to address increased interest in solar energy development on BLM-administered lands and to implement goals to construct renewable energy facilities on public lands. This 2007 policy establishes procedures for processing ROW applications for solar energy development projects on public lands administered by the BLM in accordance with the requirements of the FLPMA and the BLM's implementing regulations (43 CFR 2800), and for evaluating the feasibility of installing solar energy systems on BLM-administered facilities. This policy was updated in 2010 by two more detailed policies that establish a maximum term for authorizations, diligent development requirements, bond coverage, potential best management practices for solar energy development projects, and interim guidance on how to calculate rent for utility-scale solar energy facilities (BLM 2010a, 2010b).

The BLM and Department of Energy prepared a Solar Energy Development Programmatic EIS (Solar PEIS) to assess environmental impacts associated with the development and implementation of agency-specific programs that would facilitate environmentally responsible utility-scale solar energy development in six western states (Arizona, California, Colorado, New Mexico, Nevada, and Utah). The DOI's ROD for the Solar PEIS (Western Solar Plan) identified Solar Energy Zones, which are areas with few impediments to utility-scale production of solar energy where BLM will prioritize solar energy and associated transmission infrastructure development. This ROD amended the CDCA Plan, the Bishop RMP, and the Caliente RMP.

The Western Solar Plan designated two Solar Energy Zones in California, both of which are within the boundaries of the DRECP Plan Area. The Imperial East Solar Energy Zone has a total area of 5,722 acres and is in southeastern Imperial County near the U.S.–Mexico border. The Riverside East Solar Energy Zone has a total area of 147,910 acres and is in southeastern Riverside County. A third Solar Energy Zone, the West Chocolate Mountains, was designated through the West Chocolate Mountains Renewable Energy Evaluation Area ROD, signed in August 2013. The West Chocolate Mountains is also within the boundaries of the DRECP Plan Area. The Western Solar Plan also identified "variance" lands with solar energy resource potential that are available for application and solar energy development with additional environmental reviews and clearances. Some 576,989 acres of "variance" lands were identified in the CDCA.

The Western Solar Plan also included programmatic and Solar Energy Zone-specific design features to be required for all utility-scale solar energy projects on BLM-administered lands to avoid and/or minimize adverse impacts. For information on design features, see Appendix A, Section A.4 of the ROD. The Solar PEIS ROD also made a commitment that BLM would develop mitigation strategies to avoid, minimize, and compensate for adverse impacts associated with utility scale solar development.

The BLM executed a Solar Programmatic Agreement on September 24, 2012. Signatories include the BLM, the Advisory Council on Historic Preservation, and State Historic Preservation Officers from Arizona, California, Colorado, Nevada, New Mexico, and Utah. The Programmatic Agreement establishes procedures the BLM will follow to meet its Section 106 obligations under the National Historic Preservation Act for all future, site-specific solar energy applications where the BLM is the lead federal agency and the application is for projects on public lands managed by the BLM. The Programmatic Agreement applies to all solar applications processed under the decisions and policies in the Western Solar Plan (BLM 2012).

The Western Solar Plan also carried forward a proposal to establish a competitive leasing program for renewable energy through new regulations. On September 26, 2014, the BLM

published a proposed rule in the Federal Register called "Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections." The proposed rule would promote the use of preferred areas for solar and wind energy development and establish competitive processes, terms, and conditions for solar and wind energy ROWs both inside and outside of these preferred areas.

I.2.1.8.5 BLM Wind Energy Program

To address increased interest in wind energy development, implement the Energy Policy Act of 2005 recommendation to increase renewable energy production, and ensure the responsible development of wind resources on BLM-administered lands, the BLM evaluated wind energy potential on public lands and established wind energy policy. To support wind energy development on public lands while minimizing potential environmental and socio-cultural impacts, the BLM established a Wind Energy Development Program that includes (1) an assessment of wind energy development potential on BLM-administered lands through 2025 (a 20-year period), (2) policies regarding the processing of wind energy development ROW authorization applications, (3) best management practices for mitigating the potential impacts of wind energy development on BLM-administered lands, and (4) amendments of specific BLM land use plans to address wind energy development.

In connection with this program, the BLM, in cooperation with the Department of Energy, prepared a programmatic EIS in 2005 to (1) assess the environmental, social, and economic impacts associated with wind energy development on BLM -administered land; and (2) evaluate a number of alternatives to determine the best management approach for the BLM to adopt in terms of mitigating potential impacts and facilitating wind energy development (BLM 2005).

The BLM's proposed rule "Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections" described in Section I.2.1.8.4 also would apply to wind energy development.

I.2.1.8.6 BLM Geothermal Leasing Programmatic EIS

In October 2008, the BLM published the Final Programmatic EIS for Geothermal Leasing in the Western United States (BLM and USFS 2008). It addressed geothermal leasing on lands administered by the BLM and the USFS in 12 western states including Alaska. Specific to the BLM, the ROD of the Final Programmatic EIS approved the BLM's decision to facilitate geothermal leasing of the federal mineral estate in these 12 western states. This decision (1) allocates BLM lands as open to be considered for geothermal leasing or closed for geothermal leasing; (2) develops a reasonably foreseeable development scenario that

indicates a potential for 12,210 megawatts of electrical generating capacity from 244 power plants by 2025, plus additional direct uses of geothermal resources; and (3) adopts stipulations, best management practices, and procedures for geothermal leasing and development on BLM-administered lands.

I.2.1.8.7 Programmatic EIS Designation of Energy Corridors on Federal Land in 11 Western States

Section 368 of the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.), enacted August 8, 2005, directs the secretaries of Agriculture, Commerce, Defense, Energy, and the Interior (the Agencies) to designate under their respective authorities corridors on federal land in 11 western states (Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming) for oil, gas, and hydrogen pipelines, and electricity transmission and distribution facilities (energy corridors).

The Final PEIS was prepared by the BLM and the U.S. departments of Energy, Agriculture, and Defense as part of their work to implement Section 368 of the Energy Policy Act of 2005. The Final PEIS, released on November 28, 2008, identifies energy corridors to facilitate future siting of oil, gas, and hydrogen pipelines, as well as renewable energy development projects and electricity transmission and distribution facilities on federal lands in the West to meet the region's increasing energy demands while mitigating potential harmful effects to the environment.

Section 368 does not require that the agencies consider or approve specific projects, applications for ROWs, or other permits within designated energy corridors. Importantly, Section 368 does not direct, license, or otherwise permit any on-the-ground activity of any sort. If an applicant is interested in obtaining an authorization to site a project within any corridor designated under Section 368, the applicant would have to apply for a ROW authorization, and the Agencies would consider each application by applying appropriate project-specific reviews under requirements of laws and related regulations including, but not limited to, NEPA, the Clean Water Act, the Clean Air Act, Section 7 of the ESA, and Section 106 of the National Historic Preservation Act.

On July 7, 2009, multiple organizations filed a complaint in *Wilderness Society, et al. v. United States Department of the Interior, et al.,* No. 3:09-cv-03048-JW (N.D. Cal.). The plaintiffs raised a variety of challenges in response to the Agencies' RODs.

In July 2012, the BLM, USFS, and Department of Energy entered into a settlement agreement with the plaintiffs. One of the requirements of the agreement was that the BLM and USFS make future recommendations for revisions, deletions, and additions to the Section 368 corridor network consistent with applicable law, regulations, agency

policy, and guidance, and that they would consider the following general principles in future siting recommendations:

- Corridors are thoughtfully sited to provide maximum utility and minimum impact on the environment.
- Corridors promote efficient use of the landscape for necessary development.
- Appropriate and acceptable uses are defined for specific corridors.
- Corridors provide connectivity to renewable energy generation to the maximum extent possible, while also considering other sources of generation, in order to balance the renewable sources and to ensure the safety and reliability of electricity transmission.

I.2.1.9 Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 et seq.), is the domestic law that affirms, or implements, the United States' commitment to four international conventions (with Canada, Japan, Mexico, and Russia) for the protection of a shared migratory bird resource. Each of the conventions protect selected species of birds common to both countries (that is, they occur in both countries at some point during their annual life cycle). The MBTA protects migratory birds and their nests, eggs, young, and parts from possession, sale, purchase, barter, transport, import, export, and take. For purposes of the MBTA, take is defined as "to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect" (50 CFR 10.12). It is a strict liability statute wherein proof of intent is not an element of a taking violation. The MBTA applies to migratory birds identified in 50 CFR 10.13.

In general, the MBTA protects all birds occurring in the United States except for house (English) sparrow (*Passer domesticus*), European starlings (*Sturnus vulgaris*), rock doves (pigeons; *Columba livia*), any recently listed unprotected species in the *Federal Register*, and non-migratory upland game birds. The USFWS has regulatory authority over implementation and enforcement of the MBTA. For species listed under both the ESA and MBTA, the USFWS has the authority to authorize incidental take with special terms and conditions under Section 10(a)(1)(B) of the ESA and have this permit also serve as a Special Purpose Permit under the MBTA (50 CFR 2I.27). Special Purpose Permits are required in the event that an action would take, possess, or involve the sale or transport of birds protected by the MBTA.

I.2.1.10 Bald and Golden Eagle Protection Act of 1940, as Amended

The Bald and Golden Eagle Protection Act (Eagle Act) (16 U.S.C. 668 et seq.) is the primary law protecting bald eagles (*Haliaeetus leucocephalus*) and golden eagles (*Aquila chrysaetos*). "Take" under this statute is defined as "pursue, shoot, shoot at, poison, wound, kill, capture,

trap, collect, or molest or disturb." "Disturb" is defined as "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle; (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior; or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior" (50 CFR 22.3).

In 2009, the USFWS promulgated a new permit rule under the Eagle Act that provides a mechanism to authorize unintentional take of eagles (50 CFR 22.26). Under this new rule, the USFWS can issue permits that authorize individual instances of take of bald and golden eagles when the take is associated with, but not the purpose of, an otherwise lawful activity, and cannot be practicably avoided. The regulations also authorize permits for "programmatic" take, where take of eagles is anticipated to be (1) recurring, but not caused solely by indirect effects; and (2) occurring over the long term and/or in a location or locations that cannot be specifically identified, such as that associated with turbine operations for wind energy generation. However, under the regulations, any ongoing or programmatic take authorized must be unavoidable, even after the implementation of advanced conservation practices intended to avoid and minimize take. Project developers and operators are not legally required to seek or obtain an eagle take permit. However, the take of an eagle without a permit is a violation of the Eagle Act and could result in prosecution.

Eagle take permits may be issued only in compliance with the conservation standards of the Eagle Act. This means the take must be compatible with the preservation of each species, defined as "consistent with the goal of stable or increasing breeding populations" (74 FR 46836). A permit to take eagles under an ESA Section 10(a)(1)(B) permit can be issued when eagles are covered under an associated HCP.

I.3 PLANNING PROCESS

I.3.1 Bureau of Land Management Land Use Planning Process

I.3.1.1 Planning Criteria

In accordance with Bureau of Land Management (BLM) planning regulations (43 Code of Federal Regulations [CFR] 1610.4-2) for BLM-administered lands, the BLM developed planning criteria to help guide data collection, alternatives formulation, and impact analysis. The following criteria define the decision space or "sideboards" that define the scope of the planning effort and are based on laws, regulations, and agency guidance, serving to keep the planning process focused.

- The Environmental Impact Statement (EIS) and land use plan amendments will be completed in compliance with the Federal Land Policy and Management Act (FLPMA), Endangered Species Act (ESA), National Environmental Policy Act (NEPA), Omnibus Public Lands Management Act of 2009, National Historic Preservation Act of 1966, and all other applicable federal laws, proclamations, legislative designations, executive orders, court orders, and management policies of the BLM.
- The Desert Renewable Energy Conservation Plan (DRECP) and Land Use Plan Amendment (LUPA) are primarily driven by the need to accommodate renewable energy development and biological resource conservation. The effect of decisions on renewable energy and biological resource conservation affects other resources, uses, and values, including but not limited to physical, cultural, social, and scenic values, and uses such as land use authorizations, recreation, and mineral development within the DRECP area. In order to appropriately conserve these other resources and uses, decisions will be made on these other resources to respond to the effect on them from renewable energy development and biological resource conservation. Planning decisions will respond to changes in renewable energy and biological resource management.
- Resources, uses, and values not affected in any way by renewable energy and biological resource management are outside the scope of this LUPA. These resources, uses, and values will continue to be managed pursuant to the existing BLM land management plans, including the California Desert Conservation Area (CDCA) Plan of 1980 as amended, the Bakersfield Resource Management Plan (RMP), and Bishop RMP.
- The BLM will continue to manage resources and uses on BLM-administered lands by existing land use planning decisions unless specifically amended by the Record of Decision (ROD) for the LUPA.

- The BLM land use plan and resource management plans, as amended, will recognize valid existing rights (e.g., mining claims).
- The BLM will coordinate with local, state, tribal, and federal agencies during the EIS process to strive for consistency with existing plans and policies, to the extent consistent with federal law and the purposes of FLPMA. Pursuant to FLPMA, states are authorized to advise the Secretary of the Interior with respect to the development and revision of land use plans, guidelines, rules, and regulations for the public lands and with respect to such other land use matters as may be referred to them by the Secretary.
- The BLM decisions will be consistent and compatible with the existing Lower Colorado River Multiple Species Conservation Program and the Coachella Valley Multiple Species Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP), to the extent the HCP and NCCP are consistent with federal law and FLPMA.
- The BLM will coordinate with tribal governments and will provide strategies for the protection of recognized traditional uses in the EIS process, consistent with other planning criteria and in accordance with the purpose and need for the DRECP.
- The BLM will take into account appropriate protection and management of special-status plant and animal species on BLM-administered lands in the EIS and will engage in all required consultation under federal law, including any take permits necessary under the Bald and Golden Eagle Protection Act.
- The BLM will take into account appropriate protection and management of cultural resources on BLM-administered lands in the EIS and will engage in all required consultation.
- The BLM will recognize Legislatively and Legally Protected Lands[1] managed by the BLM, and BLM decisions will be consistent and compatible with the values for which the special designations were established.
- The BLM will recognize in the EIS the specific niche occupied by public lands in the life of the communities that surround them or that are surrounded by them and in the nation as a whole.
- The BLM will encourage public participation throughout the process.

[1] Defined as "Existing protected lands, including: Wilderness Areas, National Parks, National Preserves, National Wildlife Refuges, California State Parks and Recreation Lands, California Department of Fish and Wildlife (CDFW) Conservation Areas (Ecological Reserves and Wildlife Areas), CDFW areas, privately held conservation areas including mitigation/conservation banks approved by the Wildlife Agencies, land trust lands, Wilderness Study Areas, Wild and Scenic Rivers, and National Scenic and Historic Trails.

- Environmental protection; promotion of physical, cultural, social, and scenic values; and energy production are all desirable and necessary objectives of sound land management practices and are not to be considered mutually exclusive priorities.
- The BLM will support planning to provide renewable energy opportunities to help meet public consumptive uses that contribute to climate change.
- Under constitutional principles, federal law, and regulation, and through policy implemented over significant periods of time, BLM is responsible for managing public land resources, including species and species habitat on public land. The BLM's decision on the LUPA portion of the DRECP is not constrained or determined by any other agency's action, except as required by federal law, such as the ESA.
- As described earlier, however, the BLM is coordinating with the other agencies and is directed by statute to consider other federal, state, local, and tribal programs and policies. The BLM will secure an ESA Section 7 biological opinion for its land use plan amendments.

I.3.1.2 Types of Decisions

I.3.1.2.1 National Conservation Lands

In June 2000, the Department of the Interior and the BLM established the National Landscape Conservation System (NLCS) to provide for coordinated protection of the BLM's conservation lands. On March 30, 2009, President Barack Obama signed into law the Omnibus Public Lands Management Act of 2009 (PL 111-11) (Omnibus Act), which congressionally established the NLCS to "conserve, protect and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations." Congress directed that public land within the CDCA administered by the BLM for conservation purposes be included in the NLCS.

Secretarial Order 3309, Management of the National Landscape Conservation System, provides additional instruction to the BLM on the management of the NLCS. It instructs the BLM to ensure that components of the NLCS are managed to protect the values for which they were designated. Appropriate multiple uses may be allowed, but the BLM should prohibit uses that are in conflict with the values for which the units were designated. The Secretarial Order also directs the BLM to manage NLCS components as an integral part of the larger landscape, in collaboration with the neighboring land owners and surrounding communities, to maintain biodiversity and promote ecological connectivity and resilience in the face of climate change. The BLM is instructed to integrate science and interdisciplinary perspective into the management of these areas, and to offer visitors the adventure of experiencing natural, cultural, and historic landscapes through self-directed discovery; build and sustain communities of partners and volunteers; draw upon the

expertise of specialists throughout the BLM, in coordination with tribes, other federal, state, and local government agencies, interested local landowners, adjacent communities, and other public and private interests; and endeavor to inspire the next generation of natural resource and public land stewards by engaging youth through education, interpretation, partnerships, and job opportunities.

The BLM recognizes that the public has a heightened interest in the management and protection of the National Conservation Lands, including those in the California desert. The BLM has a unique and timely opportunity to reassess the conservation potential of CDCA lands through the DRECP process, which includes a FLPMA land use planning component. The BLM is using the public participation structure of the FLPMA land use planning component to assess and identify lands managed for conservation purposes to be included in the NLCS.

In order to identify lands proposed for conservation management as part of the NLCS, the BLM first applied the criteria from the Omnibus Act to determine what lands qualified for inclusion in the NLCS. It then identified lands meeting those criteria, and finally developed management for National Conservation Lands within the CDCA. These steps are described in detail below.

I.3.1.2.1.1 Definition of National Conservation Lands

The Omnibus Act established the NLCS in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations. The National Conservation Lands were identified based on having nationally significant ecological, cultural, and scientific values as called for under Public Law 111-11 and using the criteria listed below. The BLM identified the footprint for National Conservation Lands in the range of alternatives by use of the following criteria. The BLM identified lands with nationally significant ecologic, cultural, and scientific values using the primary criteria below. Alternative configurations of these lands are analyzed for their conservation value and importance, using the additional criteria listed below.

Primary criteria:

- **Ecological**
  - Species habitat – High-quality habitat for multiple native species; or critical habitat for a federally listed species
  - High level of ecological diversity
  - Illustrates a significant natural value or phenomenon that is exemplary in the physiographic region

- **Cultural**
  - Contains a nationally significant prehistoric or historic cultural site that is eligible for the National Register of Historic Places
  - Contains a nationally significant cultural landscape that provides context and setting for historic properties or is of religious or cultural importance to Indian tribes
- **Scientific**
  - Area that has been the focus for significant scientific study or has a natural or cultural value, natural process, or other occurrence of high scientific value for potential future study

Additional criteria used to develop alternatives:

- **Development pressure** – Area has natural or cultural values representative of other areas under development pressure, or adjoins Development Focus Areas (DFAs).
- **Landscape intactness** – Relatively undisturbed features, unmodified natural environment of fairly large size, and not impacted by numerous developments (e.g., absence of extensive road network, multiple physical facilities such as communication sites, power lines)
- **Scenic quality** – Higher levels of scenic quality as determined by the BLM Visual Resources Inventory process
- **BLM jurisdiction** – Primarily large blocks of BLM lands (may include interspersed lands managed by other agencies for conservation purposes)
- **Landscape Linkages –** Habitat and landscape-scale linkages to existing National Conservation Lands and other conservation units such as Wilderness Areas, Wilderness Study Areas, Wild and Scenic Rivers, National Trails, etc.

In some cases, these values overlapped with the values for which Areas of Critical Environmental Concern (ACECs), Desert Wildlife Management Areas (DWMAs), and other Habitat Management Areas (HMAs) were designated. However, the BLM determined that those areas must contain nationally significant ecological, cultural, or scientific values, as determined using the criteria above, to be included as National Conservation Lands.

I.3.1.2.1.2 Identification of National Conservation Lands

To identify lands for inclusion in NLCS, the BLM evaluated lands that, under the No Action Alternative, are managed to protect specific resources, as well as areas proposed in the alternatives to be managed for these purposes. These areas included existing and proposed ACECs, Desert Wildlife Management Areas (DWMAs), and Habitat Management Areas (HMAs). The BLM also considered lands outside of existing and proposed ACECs, DWMAs,

and HMAs that linked important resources and designations, such as habitat linkages, or linkages between proposed National Conservation Lands, Wilderness Areas, Wilderness Study Areas, Wild and Scenic Rivers, National Trails, and National Parks and Preserves.

Once the BLM had identified areas containing nationally significant landscapes using the primary criteria above, the interdisciplinary team developed a range of alternatives by providing different weights to the additional criteria.

The Preferred Alternative focused on habitat connectivity and cultural and botanical values. For ecological values, it focused on important wildlife linkages; threatened and endangered critical habitat and BLM Special-Status Species habitat; and smaller, highly significant botanical sites. For cultural values, this alternative considered large cultural landscapes important to Native Americans, local communities, and that assist in understanding human habitation in the CDCA; historic trails and roads; and smaller, highly significant cultural sites. The scientific values focused on larger landscapes that offer opportunities for large-scale resource on ecological response to climate change, cultural resources, biological resources, hydrology, paleontology, and geology; and smaller site with opportunities for focused research. Under this alternative, approximately 3,856,000 million acres met these criteria.

Alternative 1 focused on intact landscapes with a high scenic value. For ecological values, this included only the most scenic, intact desert landscapes and habitat. It included some wildlife linkages, but at a smaller scale, and only where lands met the scenic criteria and were not in a transmission corridor. This alternative reflects the cultural importance of a highly scenic, intact landscape, and includes large cultural landscapes and smaller sites that meet the scenic and intactness criteria. Highly scenic portions of historic trails and roads were included. The scientific values included intact landscapes, which offer opportunities for research in areas largely undisturbed by modern human activity. Under this alternative, approximately 1,626,000 acres met these criteria.

Alternative 2 was the maximum DFA and maximum conservation alternative. Under this alternative, additional threatened and endangered critical habitat and BLM Special-Status species habitat was included, as well as additional wildlife linkages. For cultural resources, the BLM included additional lands that may contain undiscovered sites and larger cultural landscapes. Scientifically, the values are similar to the Preferred Alternative, but with the addition of more disturbed lands and the opportunity for habitat restoration research. Larger intact landscapes provide opportunities for landscape level studies of prehistoric and historic lifeways. This alternative identified approximately 5,538,000 acres of National Conservation Lands.

Alternative 3 reflected the value of habitat connectivity and scientific uncertainty. Ecologically, this alternative focused on larger landscapes and included most of the wildlife linkages and Threatened and Endangered critical habitat, and BLM Special-Status Species

habitat included in the Preferred Alternative. Smaller, more isolated units, including some unique and rare plant habitats, were not included. Cultural values included large cultural landscapes important to Native Americas, local communities, and that assist in understanding human habitation of the CDCA, as well as historic trails and roads. Smaller sites isolated from larger landscapes were not included. Scientifically, large landscapes offered opportunities for large-scale research on ecological response to climate change, cultural resources, biological resources, hydrology, paleontology, and geology. Smaller sites were not included. This alternative identified approximately 3,551,000 acres of National Conservation Lands.

Finally, Alternative 4 focused on integrating DFAs and Variance Process Lands. Biologically, it was similar to, but smaller than the Preferred Alternative where there was overlap with DFAs, transmission corridors, and Variance Process Lands. Threatened and endangered critical habitat, and BLM Special-Status species habitat and important wildlife linkages were included; however, some connectivity and habitat was interrupted by scattered Variance Process Lands and transmission corridors. Cultural values were also similar to those in the Preferred Alternative, except where landscapes were interrupted by Variance Process Lands or transmission corridors. Finally scientific values were similar to the Preferred Alternative, but opportunities for landscape research was reduced due to a more fragmented landscape. This alternative identified 2,804,000 acres of National Conservation Lands.

I.3.1.2.1.3 Identification and Management of National Conservation Lands

Public Law 111-11, enacted on March 30, 2009, established in the BLM the National Landscape Conservation System (NLCS or National Conservation Lands). Congress provided for the establishment of the system in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations. Congress specified that the components of the National Conservation Lands include: national monuments; national conservation areas; Wilderness Study Areas; National Scenic and Historic Trails that are components of the National Trails System; components of the National Wild and Scenic River System; and components of the National Wilderness System. Congress also included within the National Conservation Landscape System "[a]ny area designated by Congress to be administered for conservation purposes, including . . . public land within the California Desert Conservation System administered by the Bureau of Land Management for conservation purposes."

In connection with the LUPA, the ROD will identify the lands within the CDCA that Congress included as part of the system in Section 2002(b)(2)(D) of Public Law 111-11. The BLM has, pending the ROD, identified such lands and their outstanding cultural, ecological, and scientific values in Volume II, Chapter II.3. In order to determine which lands Congress intended to include within the NLCS, the BLM inventoried and evaluated CDCA lands to

determine whether they exhibit characteristics of "nationally significant landscapes that have outstanding cultural, ecological, and scientific values," the characteristics Congress identified as describing the National Conservation Lands. Those lands within the CDCA that exhibit such characteristics, pursuant to Congress's direction, are part of the NLCS and will be managed for conservation purposes in accordance with the provisions of FLPMA, the CDCA, and Public Law 111-11. BLM received public review of and comment on the areas identified as National Conservation Lands. The BLM interprets the Omnibus Act to provide for permanent inclusion of these lands in the NLCS, meaning that they will remain part of that system unless legislation provides otherwise.

Public Law 111-11 provides Congress's basic direction to the BLM on how to manage the lands in the NLCS. This is through applicable law relating to any component listed and in a manner that protects the values for which the components of the system were designated. Once included in the NLCS, the identified lands in the CDCA will be managed to conserve, protect, and restore the identified lands in order to protect their identified outstanding cultural, ecological, and scientific values.

The BLM is also using the LUPA as an opportunity to define goals and objectives and allowable uses within the National Conservation Lands. These land use planning decisions are described in Section I.3.1.2.2. These decisions can be changed through a future land use plan decision. In accordance with the Omnibus Act, Secretarial Order 3308, and BLM policy, future land use plans for these areas will ensure that management decisions and allowable uses protect the values for which the areas were designated. Land use plans addressing National Conservation Lands will emphasize the conservation, protection, and restoration of these values (BLM 2012).

I.3.1.2.2 Land Use Plan Decisions

Land use plan decisions for public lands fall into two categories: (1) desired outcomes (goals and objectives) and (2) allowable uses (including restricted or prohibited uses) and actions anticipated to achieve desired outcomes (management actions). Goals are broad statements of desired outcomes (e.g., maintain ecosystem health and productivity, promote community stability, ensure sustainable development) that usually are not quantifiable. Objectives identify specific desired outcomes for resources. Objectives are usually quantifiable and measurable. Desired future conditions can be identified in goals or objectives.

After establishing desired outcomes, the BLM identifies allowable uses for land use allocations and management actions that are anticipated to achieve these goals and objectives. "Allowable uses" is an umbrella term that defines which uses are allowable, restricted, or prohibited on certain land use allocations or areas, including subsurface mineral estate managed by the BLM. Management actions are proactive measures that will

enhance resource values and can include but are not limited to resource restoration projects, daily activities, and administrative designations such as ACECs.

The CDCA Plan (1980, as amended), as well as the Bishop and Bakersfield RMPs, establish goals and objectives, allowable uses, and management actions that will remain valid unless they are amended in the ROD.

I.3.1.3 Site-Specific Implementation Decisions and Requirements for Further Environmental Analysis

The BLM's land use plan decisions will guide and inform future renewable energy development and resource conservation on public (federal) lands in the LUPA Decision Area. Proposed land use plan decisions are subject to protest to the Director under the planning regulations at 43 CFR 1610.5-2. The decisions would not authorize any specific projects or imply such approval. Any future projects would still require additional site-specific environmental analysis and a separate land use authorization such as a right-of-way grant or lease.

Implementation decisions generally relate to on-the-ground actions that BLM approves and that require site-specific analysis. There are no proposed implementation decisions in this Final EIS. When the BLM considers any future application, the BLM decision maker must determine if it would conform to the applicable land use plan (43 CFR 1610.5-3; Department of the Interior 2008) and what level or type of environmental documentation or analysis is required in accordance with NEPA. The BLM would retain the discretion to deny renewable energy right-of-way applications, along with geothermal leases and post-lease development, based on site-specific issues and concerns, even in areas identified as DFAs and Solar Energy Zones. The public would have opportunities to participate and comment during the project-specific NEPA process.

I.3.1.4 Integration with the Biological Conservation Planning Process

The proposed LUPA in this Final EIS has been developed within the context of the larger DRECP, specifically, the biological conservation framework, refer to Appendix D.

I.3.1.5 Consistency of DRECP with the West Mojave Route Network Planning Effort

The West Mojave Route Network Project (WMRNP) planning area is a subgeographic unit located totally within the DRECP LUPA Decision Area. Both the WMRNP and DRECP propose land-use planning changes to the CDCA Plan. The Draft Supplemental EIS for the WMRNP was released in February 2015.

The WMRNP Draft Plan Amendment is narrower in scope than the DRECP LUPA. WMRNP planning decisions center around travel management and to a lesser extent address grazing and recreation management strategies. Neither plan proposes changes to travel management area designations of closed, open, or limited. The WMRNP Draft Plan Amendment proposes changes to the process for evaluating and designating the transportation network and further limitations to off-route stopping, parking, and camping that do not affect the landscape-level proposals in the DRECP LUPA, and do not dictate particular outcomes in a specific area.

Both the WMRNP and DRECP LUPA propose changes to grazing and recreation. WMRNP replaces the general guidance on running competitive special recreation permit events on designated routes in multiple-use class "L," with the designation of a subset of specific routes that may be used for competitive special recreation permits, further limiting the potential for conflicts in areas where DRECP LUPA is identifying one or more special designations. Reallocation of forage in specific grazing allotments is also proposed in both plans. These overlapping proposals have been reviewed and are also consistent.

The WMRNP would also make route designation decisions, which are implementation decisions and not plan decisions. The implementation decisions in the WMRNP, such as route designations, will be considered in the context of the DRECP proposals, especially disturbance caps, and are being designed to avoid conflicts with the DRECP. Because the WMRNP is anticipated to be completed after the DRECP LUPA ROD is signed, implementation decisions in the WMRNP will be subject to the plan decisions in the DRECP.

I.3.2 DRECP Biological Conservation Planning Process

This section describes the DRECP biological conservation planning process used to develop the DRECP biological conservation strategy, which forms the biological foundation for the BLM LUPA. The California Desert Biological Conservation Framework is the approach for conserving Focus Species and vegetation types, and the landscape and ecological processes that support them, within the DRECP Plan Area. It includes the biological elements of the BLM LUPA and addresses the impacts of renewable energy development and the associated activities through prescribing Conservation and Management Actions (CMAs) for the renewable energy and transmission development elements of the DRECP.

The process described below focuses primarily on the biological conservation components of the planning process, but this conservation planning process was fully integrated with the BLM land use planning process described in Section I.3.1 and the renewable energy planning process described in Section I.3.3. This integrated planning process, which considered all biological resources on federal and nonfederal lands and non-biological resources and uses on BLM-administered lands within the Plan Area, produced the DRECP

alternatives described in Volume II of the Draft DRECP and EIR/EIS, and the LUPA alternatives described in Volume II of this document. The integration process for the Draft DRECP and EIR/EIS included combining the biological and non-biological elements of the BLM LUPA with the biological conservation elements for the General Conservation Plan (GCP) and Natural Community Conservation Plan (NCCP) with the renewable energy planning elements to produce a single integrated planning document. This integration was carried forward into the LUPA and Final EIS.

As part of the DRECP integrated planning process, scientific input and recommendations were incorporated at all stages. Early in the planning process, the DRECP Independent Science Advisors (ISA) provided written recommendations that were used to inform the DRECP biological conservation planning process (DRECP ISA 2010). During development of the profiles for the Focus Species, individual species experts provided review of the baseline information being used for the DRECP Focus Species. In 2012, a second group of scientists was convened, the DRECP Independent Science Panel (ISP), which provided additional written recommendations for incorporating the latest science into the DRECP (DRECP ISP 2012). In late 2012 and early 2013, independent species modeling experts reviewed, revised, and refined the species distribution models being used for DRECP Focus Species. Appendix E in the Draft DRECP, incorporated by reference to the Final EIS, provides a summary of responses to the DRECP ISA and ISP recommendations.

The biological conservation planning process included the following steps, which at times were roughly sequential, but mostly iterative:

1. Establish the conservation focus (e.g., Focus Species and vegetation types)
2. Gather baseline biological information
3. Identify Biological Goals and Objectives (BGOs)
4. Develop reserve design
5. Develop Conservation and Management Actions (CMAs)
6. Develop Monitoring and Adaptive Management Program (MAMP)

These biological conservation planning steps are described in detail in Sections I.3.4.1–I.3.4.6 of the Draft DRECP and EIR/EIS and are not repeated here. The conservation planning process considered conservation on public and private land. The BLM used this information to develop the alternatives for the LUPA as part of the integrated process in the Draft DRECP, and for the Proposed LUPA for the Final EIS.

I.3.3 Renewable Energy Goals and Planning Process

I.3.3.1 Federal/BLM Renewable Energy Goals

As detailed in the discussion of the interagency and BLM purpose and need (Sections I.1.1 and I.1.2), a number of executive and secretarial orders and congressional mandates are designed to promote the development of domestic renewable energy resources. The BLM, as the largest federal land management agency in the desert, is charged with the development of renewable energy that is consistent with the BLM's multiple use and sustained yield mandate, as well as FLPMA's requirement to "preserve the unique and irreplaceable resources, including archaeological values, and conserve the use of the economic resources" of the CDCA (43 United States Code [U.S.C.] 1781[a][6]). The BLM is seeking to facilitate renewable energy development under Secretarial Order 3285A1 (Department of the Interior 2010) and meet the president's Climate Action Plan goals to facilitate additional renewable energy projects on the public lands to support 6 million homes by 2020; and at the same time, the BLM must strive to facilitate renewable energy that is consistent with protection of other important resources and values, including units of the National Park System, National Wildlife Refuges, other specially designated areas, and wildlife, cultural, historic, and paleontological values.

I.3.3.2 California's Renewable Energy Requirements and Energy Goals

The DRECP is an important part of California's strategy for significantly increasing the use of renewable energy and reducing the combustion of fossil fuels. The state's drive to develop more renewable energy resources rests on two mandates. The first is a statutory requirement that at least 33% of retail electricity sales in California must come from renewable resources by December 31, 2020 (California Public Utilities Code, Sections 399.15[b][2][B] and 399.30[c][2]; California Public Resources Code, Section 25740). This standard, known as the Renewables Portfolio Standard (RPS), is one of the most ambitious renewable energy requirements in the country. The Global Warming Solutions Act of 2006 (AB 32) is the other mandate propelling the state's renewable energy effort to reduce greenhouse gases (GHG) emissions to address the threats posed by climate change. A number of regulatory programs are being established to achieve the statutorily mandated GHG reduction to 1990 levels by the year 2020. In addition, executive orders by the governor have established a long-range goal of reducing the 1990 level of GHG emissions by 80% by 2050 (California Executive Order S-3-05). To achieve the 2050 GHG reduction goal, California will need to develop new zero- or low-carbon energy sources such as renewable electricity generating plants above and beyond those required to meet the current RPS mandate and 2020 GHG reduction goals.

Although the state's requirements and goals are not binding on the BLM, they were considered by the Renewable Energy Action Team (REAT) when developing the Draft

DRECP and EIR/EIS, and the BLM has used them to help determine the potential demand for utility-scale renewable energy in the California desert. These requirements and goals are described in detail in Sections I.3.5.2.1 and I.3.5.2.2 of the Draft EIR/EIS and are not repeated here.

I.3.3.3 Overview of the Renewable Energy Planning Process and Development Focus Area Design Process

To support the respective state and federal renewable energy goals, the Draft DRECP and EIR/EIS identified desert locations that are most compatible with renewable energy development and areas where the DRECP's mitigation and conservation efforts would be focused. The configuration of DFAs (areas where renewable energy development would be directed under the DRECP) was a collaborative process that considered and integrated state and federal renewable energy goals, natural resources conservation needs, culturally important areas, recreation, and visual resources in the Plan Area, and information from renewable energy, conservation, utility, military, tribes, recreationists, and affected local stakeholders. The LUPA carries forward the DFAs that occur on BLM-managed public lands, but it would not make any decisions on DFAs on lands outside of BLM jurisdiction.

The following sections describe some of the underlying principles, processes, and projections used to estimate the potential need for renewable energy in the California desert and to identify DFAs and other energy development components of the different Plan alternatives. The processes used in developing the biological conservation elements of the DRECP are described separately in Section I.3.2.

I.3.3.3.1 Guiding Principles

The REAT agencies, stakeholders, and the public identified the following principles to guide the identification of areas compatible with renewable development:

1. Generation should be developed either on already-disturbed land or in areas of lower biological value, and conflict with both biological and non-biological resources should be minimized.
2. Areas identified for generation should have high-quality solar, wind, and/or geothermal renewable energy resources.
3. Generation should be sited close to existing transmission and in areas where transmission could be expected as a reasonable extension of the existing transmission system and planned system upgrades, as identified by the Renewable Energy Transmission Initiative, or other transmission plans.

4. Generation should, to the maximum extent possible, be aggregated to avoid transmission sprawl, reduce cost, and reduce disturbance across the Plan Area. Again, this principle aims to minimize disturbance to biologically, culturally, recreationally, and visually valuable areas.
5. The Plan should provide sufficient areas for development flexibility to ensure the Plan does not constrain competition within the market or unnecessarily result in distorted or environmentally incompatible incentives when implemented (i.e., where feasible, the Plan should remain market neutral between different technologies or different project configurations).

I.3.3.3.2 Steps in the Planning Process

To plan for future energy development consistent with federal and state policies and mandates, the following steps to identifying the best locations for renewable energy were identified:

1. Identify the need for desert renewable energy generation: Estimate the desert-located renewable generation needed to meet California's renewable energy goals and the federal goals. This estimate, which is subject to a number of variables and uncertainties, is based on policies and programs affecting the supply of electricity and climate change, projected mix of renewable and other zero- and low-carbon technologies, economic forecasts, and many other factors. Taking these variables into consideration, the California Energy Commission developed a number of plausible scenarios to ascertain the potential need for renewable energy in the desert region in the coming decades. Scenarios and input variables were honed over the course of more than a year based on public comments received from stakeholders and the public. As explained in Section I.3.3.4, the scenario planning effort ultimately focused on the potential need for renewable energy through 2040. The potential need identified in the scenarios was then adjusted to account for the uncertainty of long-range planning estimates, the desire to ensure flexibility and competitiveness in the renewable energy development industry, and the possibility that limited transmission capacity could constrain renewable energy development in one or more of the DFAs.
2. Estimate the acreage that may be needed: Estimate the acreage that may be needed to achieve the renewable energy goals identified above, accounting for differences in technology and local constraints on development, including land ownership issues and site-specific constraints to development such as very steep slope and environmental resource constraints (e.g., natural or cultural resources that need to be avoided). This step is described in Section I.3.3.5.
3. Identify suitable locations for DFAs and allocate megawatts among them: Use resource distribution data, in combination with agency and stakeholder input, to

identify and characterize areas suitable for renewable energy development based on the principles described above and accounting for the conservation goals identified during the reserve design process. Once DFA locations are identified, estimate renewable energy profiles that allocate generation capacity (megawatts) to each technology and between DFAs for the purpose of transmission planning, resource impacts analysis, and mitigation development. The method for this was described in Appendix F of the Draft DRECP.

4. Develop a conceptual transmission plan: Develop a conceptual transmission plan to accommodate the new renewable energy generation planned for each DFA, with assistance from transmission planners from the municipal and investor-owned utilities that will purchase renewable power generated in the Plan Area, U.S. Department of Defense, California Public Utilities Commission (CPUC), and California Independent System Operator. This plan is described in Appendix K.

These steps are described in detail in Sections I.3.5.3.3, I.3.5.3.4, I.3.5.3.5, and I.3.5.3.6 of the Draft EIR/EIS and in Appendix F of the Final EIS, and they are not repeated here.

I.3.3.4 Renewable Energy Generation Estimates in the Plan Area

The amount of generating capacity (megawatts) that California will need to meet its RPS and GHG mandates and goals cannot be forecast with great precision. Nevertheless, the uncertainty inherent in these kinds of projections does not obviate the need for programmatic planning as the best way to conserve natural resources while accommodating renewable energy development. The development components of the DRECP are based on a reasonable estimate of the amount of renewable resources that may be needed in California's desert region over the next 25 years.

The estimating process is described in detail in Sections I.3.5.4.1, I.3.5.4.2, I.3.5.4.3, I.3.5.4.4, I.3.5.4.5, and I.3.5.4.6 of the Draft EIR/EIS and summarized in Appendix F of the Final EIS, and they are not repeated here. Based on the analysis described in the aforementioned sections, the REAT agencies agreed upon an estimate of 20,000 megawatts (MW) of renewable energy development that could be reasonably expected to occur within the DRECP Plan Area through 2040.

The BLM used these estimates as a planning tool to predict demand for renewable energy development in the California desert. These estimates do not represent a target that the BLM is trying to achieve through the LUPA. The DFAs were evaluated based on their suitability for renewable energy development and the presence or absence of resources and uses that may be affected by renewable energy. The 20,000 MW planning estimate assumes that renewable energy development could occur on both public and private lands within the DRECP Plan Area. The Proposed LUPA does not contemplate meeting the full 20,000 MW of

electricity on BLM managed lands. Siting of all renewable energy within the DRECP planning area on BLM land alone would not provide for balance or flexibility in locating renewable energy development on lands with less biological value; in some instances those locations would also not align with existing transmission corridors.

Furthermore, past, present, and anticipated future renewable energy development patterns do not indicate that public lands will support all or even a majority of future renewable energy development in the Plan Area. Appendix F provides more details regarding the portion of renewable energy that has been built or is under development on public and private land.

I.3.3.5 Renewable Energy Resource Distribution and Development Potential

Section I.3.3.4 describes the expected generation targets for the Plan Area, but does not provide an assessment of the spatial distributions, extent, or quality of the resource available within the Plan Area. This section summarizes the information provided from state, federal, and stakeholder sources describing the distribution of potential generation resources used by planners in designating areas best suited for renewable energy development.

Most of the Plan Area is recognized as a world-class renewable energy resource. There are potentially 10 million acres of solar resources, 11.5 million acres of wind resources, and 350,000 acres of geothermal resources within the DRECP boundary. This section describes the information used to move beyond general acreage estimates to characterize renewable energy potential and describes the development assumptions used to refine that potential using more detailed geographic attributes within the Plan Area.

I.3.3.5.1 Estimated Renewable Energy Resource Potential

The following is an assessment of the potential area available for renewable energy development within the Plan Area:

- **Solar**: Approximately 10 million acres have the potential for the development of solar resources (areas with insolation greater than 6.5 kilowatt-hours per square meter per day). Geographically, the highest insolation values and greatest concentration of solar resources based on these data are located in the west and central Mojave regions.
- **Wind:** Approximately 11.5 million acres have the potential for development of wind resources. The greatest concentration of wind resources is located in the Tehachapi region and various mountain ranges in the central and eastern Mojave regions.
- **Geothermal:** Approximately 350,000 acres within the Plan Area have been identified as known geothermal resource areas. The geothermal resource areas are

concentrated in the Salton Sea and Imperial Valley areas, south of Owens Valley in Inyo County, and the north-central Mojave area.

The methods for reaching these assessments are described in detail in Sections I.3.5.5.1.1, I.3.5.5.1.2, and I.3.5.5.1.3 of the Draft EIR/EIS and are not repeated here.

I.3.3.5.2 Stakeholder-Defined Development Potential

The Center for Energy Efficiency and Renewable Technologies (CEERT) and the Large-Scale Solar Association (LSA) submitted a joint proposal for the development of solar energy in the Plan Area. The CEERT and LSA proposal identified the chief characteristics of desirable solar resource lands, including above-average insolation, level topography (under 5 degrees of slope), and proximity to transmission (existing or planned high-voltage lines and substations) (CEERT 2012). CEERT and LSA sought to identify up to two million acres within the DRECP boundary that they recommend should be analyzed for conflict with the conservation goals.

In November 2010, the California Wind Energy Association (CalWEA) presented "Wind Resource Considerations for the DRECP Process" to the Resource Mapping Working Group. The presentation included mapping and acreage calculations for areas of potentially viable wind resource development areas within the Plan Area. Subsequently, CalWEA updated its plan and identified wind-development focus areas that "include the highest quality wind resources that are within 10 miles of an existing transmission corridors and do not overlap with lands that have been classified by BLM as having special environmental concerns (Areas of Critical Environmental Concern (ACECs) and Desert Wildlife Management Areas (DWMAs))" (CalWEA 2012).

This information was considered by the REAT agencies as they developed the DRECP alternatives and DFA configurations.

I.3.3.6 Development Focus Areas

Using the principles laid out in Section I.3.3.3.1 to utilize disturbed lands where feasible, and to encourage compact development close to existing transmission, the REAT agencies focused DFAs on already disturbed and degraded lands.

In developing the DFAs, the aim was to avoid areas that were viewed as making significant contribution to the biological and non-biological conservation goals. The location, size, and distribution of DFAs were ultimately the spatial tradeoffs and restrictions placed on the renewable energy resources identified in Section I.3.3.5 by conservation designations.

Various subsets of DFAs were identified to assist evaluation of the different potential tradeoffs between renewable energy goals and biological and non-biological conservation

goals. Each subset of DFAs represented a different set of tradeoffs and resulted in potentially different mixes of energy generation types. This is described in detail in Sections I.3.5.6.1 and I.3.5.6.2 of the Draft EIR/EIS and is not repeated here.

I.3.3.7 Transmission Planning Goals and Assumptions

The transmission planning undertaken for the DRECP is conceptual and programmatic in nature, intended to provide a reasonable estimate of the amount of new transmission that may be needed to support anticipated renewable energy development in the desert region, as well as its approximate location and size. DRECP planners did not attempt to identify and analyze specific new or expanded transmission lines—just as the DRECP does not plan and analyze specific renewable generation projects. Planning for transmission within the DRECP and between the DRECP and load centers requires building upon previous transmission planning efforts.

As part of the DRECP planning process, the Transmission Technical Group (TTG) was formed. The TTG included transmission planners from the major California electric utilities with a direct interest in the DRECP, including Southern California Edison, Los Angeles Department of Water and Power, San Diego Gas and Electric, Imperial Irrigation District, and Pacific Gas and Electric. It also included representatives from the U.S. Department of Defense (DOD), the California Independent System Operator, CPUC, and CEC. The details of the TTG's analysis are set forth in Appendix K of the Draft DRECP and include conceptual electric transmission lines within and outside of DRECP area. The work of the TTG was coordinated by three co-chairs who represented the California Independent System Operator, CPUC, and CEC.

The Garamendi Principles (SB 2431), which are supported in California to minimize the costs and environmental impacts of new transmission projects, were used when preparing the DRECP transmission planning maps; thus map lines that indicate new transmission needs were drawn to follow existing transmission rights-of-way wherever possible (CEC 2007). But otherwise, the line segments represent only the electrical connections (i.e., the end-points of each line segment) and do not reflect specific siting plans or routes for new transmission lines. The new transmission lines identified through this exercise have not been evaluated for the specific locations, constructability, desirability, cost, or likelihood of their successful permitting. They also have not been studied by transmission planning groups to identify reliability concerns or effects on other transmission systems.

Transmission planning for the DRECP was neutral regarding potential transmission owner or developer. The transmission conceptual plan for the DRECP was assumed to serve Plan Area generation growth only, and it was dependent upon the location and extent of the new generation as well as the location of the load center receiving the electricity.

The transmission plan was based on the CEC's estimates of need for renewable energy generating capacity to meet RPS and GHG emissions targets, as described in Section I.3.3.2. The planning process identified, at a gross scale, the necessary transmission system facility additions that would likely be needed to accommodate 20,000 MW of renewable generation that could be developed within the 2040 time frame.

The transmission system upgrades assume that a combination of available and new transmission capacity would be utilized to accommodate generation within the DFAs through 2040. The availability of existing transmission is based on the 2020 cases prepared by the California Transmission Planning Group (http://www.ctpg.us). For DRECP planning purposes, the available capacity identified by the California Transmission Planning Group's 2020 cases was also used as the available existing transmission capacity for 2040, since transmission upgrades for load growth and other grid-related expansion requirements were not considered likely between 2020 and 2040.

The TTG did not address any transmission that might be built on DOD lands. Instead, the DOD provided the TTG with exit point locations at the military base boundaries for 1,500 MW of new transmission from the bases, and the TTG planned for collector lines to the nearest collector substations. For purposes of this analysis, and at the DOD's request, this 1,500 MW was considered in addition to the renewable generation included in each of the DRECP alternatives.

The TTG identified transmission system facility additions that would accommodate a specified number of megawatts of renewable generation that could be developed in the DFAs by 2040. Each new identified element of the transmission system (e.g., substation, transmission line) was assigned a capacity (in megawatts) to accommodate the estimated new generation; the TTG also estimated the amount of land that would be affected by the transmission facility's construction and operation. Standard transmission grid components were assembled to derive a conceptual transmission plan for each alternative. For substations, the estimated acres of permanent impact were based on the transmission voltages that the substations are designed to serve. Transmission line length and width were based on the distance (length) to substation locations and the width of the right-of-way required. Access road length and width were based on the size of the substation, the length of the transmission line, and standard construction methods. Each 230 kilovolt (kV) and 500 kV line was assumed to require a permanent access road. The use of helicopters to install transmission lines could reduce the need for access roads, but such a site-specific analysis was beyond the scope of the TTG effort.

The basic assumptions used to estimate impacts of transmission components included consideration of all transmission lines that are likely to be required to interconnect desert renewable energy projects. This included lines ranging from 34.5 kV to 500 kV, as well as

substations and access roads. The amount and location of generation is different for each alternative and is described in Appendix K of the Draft DRECP.

Information on the size and mix of generation technologies and how they were assumed to be distributed in the DFAs enables the calculation of the expected length of generation interconnection tie lines; number, size, and location of new collector substations; and likely length of delivery lines to the main transmission grid. For transmission, the technology mix is important when assessing the maximum simultaneous delivery capacity for collector lines from all generators since this would indicate the maximum size (in megawatts) of a new line. The maximum simultaneous delivery capacity is defined as the point during the annual load cycle when delivery to load is likely to peak. This is primarily driven by the mix of wind and solar generation. Because solar and wind provide energy at different times of the day, delivery lines were sized to accommodate the expected simultaneous output of the different renewable technologies within each DFA for the time period (month and hour) used to conduct the transmission analysis. To do this, TTG members used their professional judgment to define the percentage of output that would result from the solar, wind, and geothermal generation within each DFA to estimate the maximum simultaneous output.[2] In contrast, collector lines that connect the generators within each DFA to the collector substations are sized to accommodate the maximum possible combined output of all generators within the DFA.

I.3.4 Plan Integration

As described above, the DRECP planning process integrates three types of mapping elements: (1) BLM land use planning designations, (2) biological conservation areas, and (3) renewable energy planning areas. As described further below, BLM land use planning designations are developed using the process described in Section I.3.1 and include conservation designations (NLCS, ACEC, Wildlife Allocation), as well as other designations, such as Special Recreation Management Areas and Extensive Recreation Management Areas. The biological conservation areas were developed in the context of the DRECP biological conservation planning process, described in Section I.3.2. The renewable energy planning areas were developed using the process described in Section I.3.3 and are based on renewable energy resource considerations reflected in state and federal renewable energy policies, an evaluation of potential future demand for renewable energy represented in the CEC calculator, and renewable energy resource and technology information.

I.3.4.1 BLM Land Use Planning Designations

The BLM land use planning designations include areas suitable for renewable energy development; areas suitable for biological, cultural, and scientific conservation; and areas

[2] The TTG assumed output at 90% for geothermal facilities, 80% for solar facilities, and between 28% and 52% for wind facilities (based on location).

suitable for an emphasis on recreation, mineral extraction, grazing and other multiple uses. The requirements of Public Law 111-11 for conservation of nationally significant ecological, cultural, and scientific resources lead to the mapped areas identified as National Conservation Lands. The multiple use and sustained yield requirements of FLPMA lead to modifications in the management of recreation (including the establishment of Special Recreation Management Areas and Extensive Recreation Management Areas), allowing for continued exploration of mineral resources, establishment of Visual Resource Management Classes, and grazing. BLM also developed mitigation measures for impacts to the various multiple uses and resources it considers in managing its lands, and developed mitigation measures to maintain multiple use and sustained yield. Tribal input was considered in developing both the DFAs and areas for conservation, to remove important areas from DFAs and ensure adequate protection through inclusion in conservation areas.

I.3.4.2 Biological Conservation Areas

Each alternative described in the Draft EIR/EIS included a LUPA-wide conservation strategy that includes areas for biological conservation, as well as other biological conservation strategy elements, such as CMAs and monitoring and adaptive management. The areas for biological conservation included the existing conservation areas and BLM LUPA conservation designations on BLM-administered lands. The initial steps in identifying and mapping areas important for biological conservation included establishing the conservation focus and defining a proposed Focus Species list, assembling baseline information, and identifying BGOs. The biological conservation planning process follows from these initial steps, as described in Section I.3.4. The Proposed LUPA and Final EIS carries forward this strategy on BLM lands, through biological conservation areas, such as certain National Conservation Lands, ACECs, and Wildlife Allocations.

I.3.4.3 Renewable Energy Planning Areas

The renewable energy planning areas (DFAs) were developed based on a consideration of mapped renewable energy resources and modeled renewable energy technology profiles on the one hand, and areas with important or sensitive natural resources, as identified in the biological conservation planning process and BLM's land use planning process, on the other. As described in Section I.3.3, the renewable energy planning process is guided by the need to reduce the environmental impacts of anticipated renewable energy development and the need to help achieve state and federal renewable energy goals. The Draft DRECP and EIR/EIS assumed that renewable energy development would occur in DFAs and examined alternative configurations for DFAs and renewable energy technology profiles that could accommodate the development of renewable energy projects capable of generating up to 20,000 MWs of electricity throughout the plan area, including federal, state and private lands. For planning purposes, the DRECP assumes that there could be a demand for up to 20,000 MWs of renewable energy generation within

the term of the DRECP to 2040, as described in Section I.3.3. The Proposed LUPA carries forward this strategy on BLM lands through the designation of DFAs and adoption of CMAs and policies that would streamline renewable energy development in the DFAs. The proposed LUPA does not contemplate that all 20,000 MW of electricity would be produced on BLM-managed lands.

I.3.5 Duration of the DRECP BLM LUPA

BLM regulations under 43 CFR 1610.5-5 do not specify a duration for LUPAs; therefore, the LUPAs approved as part of the DRECP would not expire and would remain in place until amended through future land use planning efforts as described in BLM regulations (43 CFR 1610). The BLM periodically evaluates land use plans to determine if new decisions are required through the plan amendment process (see BLM 2005, pp. 33–38). The plan amendment process is subject to NEPA and includes opportunities for participation by the public and other federal, state, and local agencies. The LUPAs approved as part of the DRECP could be amended in the future pursuant to changing conditions or law and policy as required by federal law and regulation, including FLPMA.

The public lands within the CDCA that comprise nationally significant landscapes with outstanding cultural, ecological, and scientific values that are administered by the BLM for conservation purpose as part of the NLCS, and will be managed to protect the values for which these lands were designated. The BLM interprets the Omnibus Act to provide for permanent inclusion of these lands in the NLCS, and therefore, cannot remove lands from the NLCS through a land use plan amendment. While the lands themselves are permanently included in the NLCS, the CMAs remain subject to land use planning decisions, and may be changed through the land use plan amendment process, so long as those changes are consistent with the Omnibus Act.

BLM-authorized activities on public land must conform to the applicable land use plan. If the BLM receives an application for a project that does not conform to the land use plan, it may reject the application without additional analysis. If the BLM determines the proposal warrants further analysis, it must undertake a plan amendment, which includes a public process, as described in the land use planning regulations at 43 CFR 1610.2.

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